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MLC Debates.
Official Report

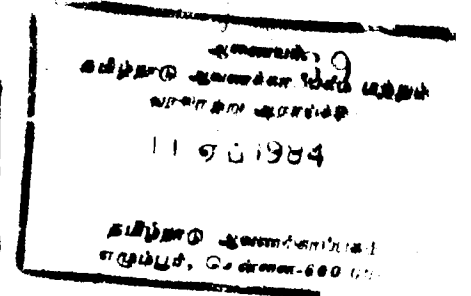
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**MADRAS LEGISLATIVE COUNCIL
DEBATES**

OFFICIAL REPORT

FRIDAY, 23RD APRIL 1948

VOLUME XVII—No. 4

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THE MADRAS LEGISLATIVE COUNCIL.

Friday, the 23rd April 1948.

The House met in the Council Chamber, Fort St. George, at eleven of the clock, Mr. President (THE HON. SRI R. B. RAMA-KRISHNA RAJU) in the Chair.

I.—QUESTIONS AND ANSWERS.

STARRED QUESTIONS.

Procurement of paddy from Sriperumbudur.

* 68 Q.—SRI C. N. MUTHURANGA MUDALIYAR: Will the Hon. Minister for Food be pleased to state—

(a) whether it is a fact that on 1st February 1947 Sri K. M. Audinarayana Chettiar, the local procuring agent of Poona-mallee Panchayat Area, procured paddy from Sriperumbudur village;

(b) whether the 'E' Forms supplied to ryots did not show either the serial number or the date of purchases;

(c) whether it is a fact that the Tahsildar of Sriperumbudur has refused to recognize the undated receipts for the purpose of sanctioning the bonus and the ryots deprived of their bonus;

(d) whether it is a fact that even the difference in the price of 3 annas 1 pie due to the then enhancement has not been paid to the parties;

(e) whether it is a fact that the ryots of Sriperumbudur taluk have complained to the Collector for the payment of bonus and for the payment of the difference in the prices;

(f) what action was taken in the matter or whether any action is proposed to be taken; and

(g) on what authority a local agent in one firka was enabled to procure paddy in another firka?

THE HON. DR. T. S. S. RAJAN :—“(a) Yes.

“(b) No. The 'E' forms did not contain either the serial number or the date of purchase.

“(c) On a complaint received from two producers, who had delivered paddy that the Tahsildar, Sriperumbudur did not admit the application for payment of bonus without valid 'E' form receipts, the Collector of Chingleput has issued instructions to the Tahsildar that the omission to note the serial number in the 'E' forms may be ignored and bonus should be paid to the ryots, if the entries in the purchase registers support the transactions.

“(d) On the receipt of a similar complaint, the Collector of Chingleput has issued orders to pay the difference in price of Re. 0-3-1 to the producers by the procuring agent and the difference in rates has been paid to the ryots.

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"(e) Two ryots complained to the Collector for the payment of bonus and the difference in price.

"(f) The Collector of Chingleput has issued necessary orders to pay the difference in price and the bonus to the ryots as stated in reply to questions (c) and (d).

"(g) As the procuring agent of the Poonamallee Panchayat Board area represented to the Collector of Chingleput in January 1947 that he had no stocks of foodgrains for distribution in that area and that he may be permitted to purchase stocks outside his area, the Collector considering the very low stock position, permitted him to procure stocks outside the area allotted to him, as a temporary measure."

SRI C. N. MUTHURANGA MUDALIYAR :—" Is it in order, according to the Ration rules, to permit such irregularities of procuring paddy out of the allotted area? "

THE HON. DR. T. S. S. RAJAN :—" That is a discretion given to the Collector to meet a difficult situation. This is a question of food-grains distribution and a sudden shortage might arise at any time. If the Collectors are not given that amount of liberty to move stocks from wherever they are available to the areas in which they are urgently required, then food distribution will become a very grave risk, and that is why discretion has been given to the Collectors and in the exercise of that discretion, the Collector has acted like that, in this instance."

SRI C. N. MUTHURANGA MUDALIYAR :—" Is it not the proper course to direct the local agent to purchase paddy from the wholesale merchant, if there is stock available? "

THE HON. DR. T. S. S. RAJAN :—" This is only a temporary arrangement, Sir, to meet a situation which has arisen under unforeseen circumstances. I do not think that any rule has been gravely violated by the Collector."

SRI R. SURYANARAYANA RAO :—" In view of the fact that there may be several similar cases where the E forms furnished by the Collectors to the ryots might not show either the serial number or the date of purchase, would it not be better that general instructions are given to all Collectors, that the bonus might be paid if the entries in the purchase registers support the transactions? "

THE HON. DR. T. S. S. RAJAN :—" I am afraid, Sir, that such general instructions should not be issued in the interests of proper finance and accounting. These E form receipts convey certain implications and are intended for the Accountant-General for check, audit and verification, whether the bonus paid is in cash or in the form of manure. Any such small lapses in the proper filling up of the E forms might seriously affect the accounting procedure and lead to complications, and therefore on that account, it is not advisable to issue general instructions to the Collectors to overlook such lapses."

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SRI R. SURYANARAYANA RAO :—" In view of the possibility that some of the Collectors might not be aware of the fact that they have the power to order such payments, unless it is brought to their notice, is it not better that they are informed accordingly by a circular? "

THE HON. DR. T. S. S. RAJAN :—" The Collectors have got the power to do so and they are aware of it and there is no need to issue general instructions in the matter."

Quota of rice allotted to Tinnevely and Ramnad districts.

* 69 Q.—SRI K. MANATHUNAINATHA DESIGAR : Will the Hon. the Minister for Food be pleased to state—

(a) the quota of rice allotted to the districts of Ramnad and Tinnevely in the months of January and February 1948; and

(b) the quantities actually supplied against the allotted quotas?

THE HON. DR. T. S. S. RAJAN :—" (a) The quotas of rice allotted are as follows :—

District.	January.	February.
Ramnad.	4,500 tons.	5,000 tons.
Tinnevely.	4,500 tons.	5,000 tons.

" (b) The entire quantities mentioned above have been supplied."

SRI N. SANKARA REDDI :—" May I know, Sir, whether these are deficit or surplus districts? "

THE HON. DR. T. S. S. RAJAN :—" Both Ramnad and Tinnevely are deficit districts, Sir."

SRI N. SANKARA REDDI :—" Is it the policy of Government not to send any rice to the deficit districts hereafter, above the allotted quota? "

THE HON. DR. T. S. S. RAJAN :—" The information I have given will show that wherever there is a demand for more rice particularly on account of any sudden food shortage, the Government take the earliest measures to meet it, independent of the fact whether the particular district is a deficit or a surplus district. It is the general belief that surplus districts do not require that sort of help, but even there, if there is any sudden shortage, the Government will do the needful to meet the shortage."

SRI N. SANKARA REDDI :—" Is it not a fact that the Collector of Kurnool has been informed by the Government that although Kurnool is a deficit district in rice that no rice will hereafter be sent to that district? "

THE HON. DR. T. S. S. RAJAN :—" The Kurnool district is predominantly a millet producing district and the people of that district are mostly millet eaters. But if the Collector requires some quantity of rice urgently for meeting any

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emergency or any unforeseen demand, he will certainly be supplied with rice. But it is a general rule that in a district, which is surplus in millets, and where millet is the normal consumption of the population, there should be no stock of rice, and I do not think that there is any need to stock any rice there. But if it is asked for at any time, it will be given."

SRI N. SANKARA REDDI:—"Sir, is it not a fact that about 25 to 30 per cent of the people of that district are rice-eaters and that the present stock of rice is not sufficient for them and that some more rice should be sent there?"

THE HON. DR. T. S. S. RAJAN:—"It is the Collector of the district who is to examine the question and if he wants more rice to be sent to the district and explains the reasons therefor, the Government will consider and do something in the matter."

SRI R. SURYANARAYANA RAO:—"Is South Kanara a deficit or a surplus district?"

THE HON. DR. T. S. S. RAJAN:—"If the hon. Member had watched the debate on the adjournment motion in the other House the other day, he would have known what it is. But all the same, we consider that South Kanara is a surplus district."

Popularising of fish eating.

* 70 Q.—SRI K. MANATHUNAINATHA DESIGAR: Will the Hon. the Minister for Food be pleased to state what steps the Government have taken to popularise fish eating and make it available in the deficit areas in the ensuing months?

THE HON. DR. T. S. S. RAJAN:—"No special steps are considered necessary by the Government for popularising the eating of fish. The Government have sanctioned several Grow More Fish Schemes for increasing the production of fish in the Province. One of the items of work proposed to be undertaken by the Fishery Marketing Officer in the immediate future is the provision of increased transport facilities for fish and fishery products from surplus areas to deficit areas."

SRI B. N. RAYANASWAMI NAYUDU:—"Is there enough fish at all to catch?"

THE HON. DR. T. S. S. RAJAN:—"Sir, I think we have got a wide sea coast and have got all the facilities and natural resources for deep-sea fishing."

SRI B. N. RAYANASWAMI NAYUDU:—"May I know if we have got enough catch to feed the population?"

THE HON. DR. T. S. S. RAJAN:—"Sir, so far as facilities for deep-sea fishing are concerned, I must admit, we have

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not got enough and we are very far behind other countries in the matter of deep-sea fishing. But the Government are taking steps to see what can be done in that direction."

Electricity supplied to factories, etc.

* 71 Q.—SRI P. VEERABHADRASWAMI: Will the Hon. the Minister for Public Works be pleased to state—

(a) the quantity of electricity supplied to (1) factories, (2) for lighting in the City of Madras in 1946-47; and

(b) whether the Government propose to take over the Madras Electrical Tramways or allow the Corporation to take it over?

THE HON. SRI M. BHAKTAVATSALAM:—" (a) Particulars of the quantity of electricity supplied during the year 1946-47 are not available exclusively for the City of Madras, but are available for the whole area served by the Madras Electric Supply Corporation, Limited, which comprises the Madras City and an area extending a little beyond the City limits. The particulars are not strictly classifiable under the two heads 'factories' and 'lighting', but have been maintained by the Madras Electric Supply Corporation, Limited, under several heads which are given below:—

	UNITS.
(1) Industrial Power (Low and Medium voltage supplies)	5,574,673
(2) Industrial Power (High voltage supplies)	18,937,225
(3) Tramways	5,119,992
(4) Electric Railways	13,031,869
(5) Public Water Works and sewage pumping	3,031,810
(6) Supply to Military Engineering Service.	3,353,226
(7) Supplies in bulk to other distributing licensees	701,495
(8) Commercial light and small power (Heat and Power, i.e., power for appliance such as frigidaire, pump motor, etc.).	3,786,523
(9) Domestic consumption (Heat and power)	407,550
(10) Street lighting	1,820,532
(11) Domestic consumption (Lights and Fans)	6,085,163
(12) Commercial consumption (Lights and Fans)	6,337,452
Total	68,187,510

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"(b) The Government do not propose to take over the Madras Electric Tramways. The question of the Corporation of Madras taking over the Tramways is under the consideration of the Corporation Council whose final decision in the matter is awaited."

Purchase of iron and steel from the "Disposals".

* 72 Q.—SRI R. SURYANARAYANA RAO: Will the Hon. the Minister for Public Works be pleased to state—

(a) whether the Government have arranged to purchase large quantities of iron and steel including scrap from the "Disposals";

(b) what the quantity purchased and the amount paid for it are;

(c) where these materials are available;

(d) to what extent supply of iron and steel has been augmented by the purchases from the "Disposals";

(e) whether any portion of it will be released for the use of the public; and

(f) whether the materials purchased can be utilized straight away without further fabrication?

THE HON. SRI M. BHAKTAVATSALAM:—“(a) Yes. Government have ordered the purchase of about 14,175 tons of iron and steel of the controlled categories from the Military Engineering Parks at Arkonam, Avadi, Coimbatore and Vizagapatam and the Engineer Store Depot at Avadi.

“(b) The quantity of steel proposed to be purchased is 14,175 tons at Rs. 28,19,805 as shown below:—

		Quantity.	Estimated value.
		TONS.	RS.
(i) Standard Steel		369	92,250
(ii) Defectives (a)		5,370	11,41,125
(b)		6,764	12,30,750
(iii) Scrap		1,872	3,55,680
Total		14,175	28,19,805

No amount has so far been paid, as the release orders for iron and steel are yet awaited from the Iron and Steel Controller.

“(c) These materials are available in the four Military Engineer Parks at Avadi, Arkonam, Coimbatore and Vizagapatam and at the Engineer Store Depot at Avadi.

“(d) It is expected that the purchase from ‘Disposals’ will augment the supply of iron and steel to this Province to the

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extent of this purchase; and appropriate portion of it will have to be counted against the periodical quota for the Province.

“(c) A portion, perhaps about 4,000 tons, of certain categories will be released to the public, through the Agricultural Department.

“(f) The materials are in the form suitable for our requirements.”

SRI R. SURYANARAYANA RAO:—“May I know, Sir, whether this quantity that has been purchased will be set off against the quota or whether it will be in addition to the quota that we are entitled to have?”

THE HON. SRI M. BHAKTAVATSALAM:—“Not all, Sir. 11-15 a.m.
A portion of it will be set off.”

Amalgamation of the various Engineering services.

* 73 Q.—SRI P. VEERABHADRASWAMI: Will the Hon. the Minister for Public Works be pleased to state when the proposed amalgamation of the various Engineering services will come into force?

THE HON. SRI M. BHAKTAVATSALAM:—“The question is under examination and final orders will be issued after taking into account the decisions arrived at on certain recommendations made by the Retrenchment and Reorganization Committee regarding the Highways Department.”

Mettupalayam-Coonoor Bus service.

* 74 Q.—ABDUL LATIF FAROOKHI SAHIB BAHADUR (on behalf of Sri Medai Dalavoi Kumaraswami Mudaliyar): Will the Hon. the Minister for Prohibition be pleased to state—

(a) whether the managing director of the Mettupalayam-Coonoor Service, a bus company in Coimbatore district, was convicted to a day's imprisonment and to a fine in a criminal case connected with his bus service;

(b) whether the Sessions Judge in his judgment on his appeal remarked that the sentence was too light;

(c) whether the Government propose to appeal for an enhancement of the sentence;

(d) whether the Government propose to cancel the permits of this owner in view of his conviction in a criminal case connected with his bus service;

(e) whether the owner of the bus service was connected with certain enquiry by the Police regarding payment of illegal gratification to Government servants; and

(f) if so, in what stage the enquiry stands now?

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THE HON. SRI K. MADHAVA MENON (on behalf of Hon. the Minister for Prohibition) :—“(a) The Managing Director of the Mettupalayam-Coonoor Service, Limited, was convicted under section 193, Indian Penal Code, by the City First-class Magistrate, Coimbatore, in C.C. No. 3 of 1946 on his file and sentenced to imprisonment till the rising of the court and to a fine of Rs. 500 or, in default, to suffer rigorous imprisonment for three months.

“(b) The answer is in the affirmative.

“(c) The answer is in the affirmative.

“(d) This is a matter for consideration by the transport authority which granted the permits with reference to section 60 of the Motor Vehicles Act.

“(e) The answer is in the affirmative.

“(f) The enquiry is still proceeding.”

SRI B. BHIMA RAO :—“May I know, Sir, the details of the offence?”

THE HON. SRI K. MADHAVA MENON :—“The offence is intentionally falsifying evidence by preparing and sending false trip sheet and by producing it to the Secretary, Road Traffic Board, knowing it to be false.”

Representation from the Erode Co-operative House Mortgage Bank, Ltd.

* 75 Q.—**SRI R. SURYANARAYANA RAO** : Will the Hon. the Minister for Prohibition be pleased to state whether the Government have received any representation from the Erode Co-operative House Mortgage Bank, Ltd., seeking some facilities to develop house building and what the orders of Government thereon are?

THE HON. SRI K. MADHAVA MENON (on behalf of Hon. the Minister for Prohibition) :—“Yes, Sir. The bank applied for the assistance of the Government for the acquisition of sites for construction of houses, the grant of a loan for financing its house construction scheme and facilities for obtaining building materials on a priority basis. A housing committee has been constituted for Erode for selection of sites and a Co-operative House Construction Society is to be registered for the purpose or as part of the general scheme of Government to relieve the existing housing shortage.

The Government considered that the House Construction Society will be able to carry out the house building schemes more urgently and in a larger measure with the financial assistance of the Government and that as the Mortgage Bank proposed to finance this scheme mainly with funds borrowed from State concerns, it would not be possible to provide State loans to the Bank. They have accordingly informed the Bank

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that its first two requests cannot be complied with, and that in regard to procurement of building materials it can apply to the Registrar for assistance.”

Alleged refusal to carry Harijan passengers by bus.

* 76 Q.—**SRI R. SURYANARAYANA RAO** : With reference to answer to question No. 210 answered on December 20, 1947, will the Hon. the Minister for Prohibition be pleased to state whether the awaited report has been received and if so, the action taken thereon?

THE HON. SRI K. MADHAVA MENON (on behalf of Hon. the Minister for Prohibition) :—“The Commissioner, Ootacamund Municipality, traced seven out of the nine signatories to the petition and forwarded to the Government their statements recorded by him together with his report. As the allegations were found to be substantially true a copy of his report together with the statements in original have been sent to the Central Road Traffic Board for taking suitable action against the company. The Board has been asked to report to the Government in due course the action taken. The Central Board's report is awaited.”

SRI R. SURYANARAYANA RAO :—“When the report has been sent to the Central Road Traffic Board, Sir, how long will it take for it to come to a decision in a matter of this type, especially when the facts are considered to be true?”

THE HON. SRI K. MADHAVA MENON :—“The report was expected by 1st April 1948, Sir. It has not yet come.”

ABDUL LATIF FAROOKHI SAHIB BAHADUR :—“Was it ordered to be sent on 1st April 1948, Sir?”

THE HON. SRI K. MADHAVA MENON :—“The report was asked to be submitted if possible by 1st April 1948. It has not yet come.”

ABDUL LATIF FAROOKHI SAHIB BAHADUR :—“Will the Government remind the Board, Sir?”

THE HON. SRI K. MADHAVA MENON :—“It is the usual Secretariat instruction, Sir, that when a reply is not received within 15 days a reminder ought to be sent.”

Manufacture of power alcohol.

* 77 Q.—**SRI R. SURYANARAYANA RAO** : Will the Hon. the Minister for Industries be pleased to state—

(a) what the quantity of molasses available is in the sugar factories in the Province;

(b) whether these molasses are being utilized for preparing power alcohol and other by-products;

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(c) whether in view of the world oil shortage and the necessary cut in petrol rations even to essential users, the Government have considered the possibility of developing power alcohol industry; and

(d) what steps have been taken or proposed to be taken to encourage power alcohol industry?

THE HON. SRI H. SITARAMA REDDI:—“(a) About 20,000 tons per annum.

“(b) Molasses are not at present utilized in this Province, for the manufacture of power alcohol. But some sugar factories are manufacturing rectified spirit from molasses.

“(c) & (d) The matter is under examination.”

SRI R. SURYANARAYANA RAO:—“Are the Government aware that the Central Government have passed an Act for dealing with this subject and under that Act this Government cannot move in the matter?”

THE HON. SRI H. SITARAMA REDDI:—“The Government are aware of the passing of the Act and steps are being taken to see that power alcohol factories are established in this Province.”

SRI B. NARAYANASWAMI NAYUDU:—“May I know how many factories have been allotted?”

THE HON. SRI H. SITARAMA REDDI:—“The Government of India have allowed two factories for this Province. The Government of Madras feel that five factories are necessary and the Government of India have been addressed by the Madras Government suggesting that five factories may be allowed to be established in the Province of Madras. Reply is awaited from the Government of India.”

SRI B. NARAYANASWAMI NAYUDU:—“Have the two factories been put into operation, Sir?”

THE HON. SRI H. SITARAMA REDDI:—“The panel that was appointed by the Government considered it necessary only to establish factories all over India and they suggested that two might be allowed for Madras. We have been asking for five. That is the stage at which the matter is pending with the Government of India.”

SRI B. NARAYANASWAMI NAYUDU:—“I wanted to know, Sir, whether two factories that were allotted have been put on their feet.”

THE HON. SRI H. SITARAMA REDDI:—“As I have already said, Sir, it is not a question of allotment. Two factories were suggested for the Province and in my answer I have stated that there are now no plants for manufacturing power alcohol in this Province. A decision about the number of

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factories that are to be established in the Province is yet to be taken in view of the Act passed by the Central Legislature.”

SRI S. B. ADITYAN:—“May I know, Sir, whether these two factories are intended to be run by the Government?”

THE HON. SRI H. SITARAMA REDDI:—“No decision has been taken as to whether any or all the factories are to be run by Government or by private industrialists.”

SRI N. SANKARA REDDI:—“May I know which will be much cheaper, Sir, whether power alcohol or petrol from potatoes?”

THE HON. SRI H. SITARAMA REDDI:—“I have not studied the economics of the manufacture of power alcohol from potatoes, Sir. If my hon. Friend puts a separate question I shall be able to furnish details.”

[Note.—An asterisk (*) at the commencement of a speech indicates revision by the Member.]

II.—STATEMENT BY THE LEADER OF THE HOUSE RE SITTINGS OF THE HOUSE.

THE HON. DR T. S. S. RAJAN:—“Sir, to-morrow there is an important function in which we as a Government are very much interested. We have moved and successfully moved for the establishment of a Leather Research Institute in this Province and the Hon. Mr. Shyam Prasad Mukherji, the Hon. Member in charge of Supplies in the Government of India is coming here to-morrow to lay the foundation stone at about half past eleven at Guindy. Members of Government feel that their presence at the function is not only necessary but will be indicative of their goodwill with regard to the scheme that we are launching on behalf of the Province. Hon. Members of the House will also I expect get invitations in the course of the day. I suggest that they come and attend the function. In any case we as a Government have got to be there. Therefore I would suggest that we might meet at half past two to-morrow instead of at 11 o'clock.”

MR. PRESIDENT:—“I think the House has no objection. If necessary we can sit a little late to-morrow.”

III.—GOVERNMENT BILLS.

(1) THE MADRAS RE-ENACTING AND REPEALING (No. 1) BILL, 194 (L.A. BILL No. 3 OF 1948).

* MR. PRESIDENT:—“On yesterday's point of order I am giving the following ruling. I request the House to permit me to do it sitting.

“When the Re-enacting and Repealing Bill (No. 1) Bill 194 (L.A. Bill No. 3 of 1948) was taken up for consideration the following point of order was raised by the Opposition. ‘The objection is that the present Bill seeks to enact at one stroke a bunch of nearly one hundred Acts which are about to expire, some to be re-enacted *in toto* and some others with certain modifications

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and that it also seeks to repeal a number of other Acts.' The Opposition's case is that whatever might be the case about the repeal of Acts, every measure for enacting a particular Act should come up before the House independently and the various clauses of the said measure should be put to the House one by one as usual. In short the objection is that in this particular case there ought to be nearly 100 separate motions for enacting the various Acts and that they should not at all be clubbed together and brought up as a schedule to one Bill which seeks to enact all such measures in a 'group'. At first it looked to me that there was considerable force in this argument. During the course of the discussion I felt that the procedure adopted for re-enacting or continuing an existing Act which is about to expire shortly should by its very nature be different from the procedure for placing a new Bill on the Statute Book. Investigation into the question reveals that my impression is wellfounded. The Legislative Council Rules are silent about this point and do not contain any provision for or against, relating to the procedure for dealing with existing laws. It is, therefore, necessary to look at the procedure of the other Legislatures for deciding this point. In May's Parliamentary Practice, Fourteenth Edition, on page 289 we find the following :—

'Finally there are certain annual routine measures such as the Army and Air Force (Annual) Bill and the Expiring Laws Continuance Bill which should be passed in Government time, but offer a very wide choice of subjects for criticism which is expressed by means of amendments moved at the Committee stage.'

In Halsbury's Statutes of England, Volume XVIII, 1930, on page 1178 we find the following :—

'Expiring Laws Act, 1922 (12 and 13, Geo. 5 c. 50). An Act to deal with certain expiring laws by making some of them permanent, repealing others and continuing the remainder for a limited period.'

We find that the provisions of this Act are exactly similar to the provisions of the present Bill. The abovementioned Act of 1922 contains a statement to the effect that the Acts mentioned in Parts I and II of the First Schedule are limited to expire on particular dates and the Acts mentioned in the Second Schedule are limited to expire on particular date and the Acts mentioned in the Third Schedule are limited to expire on various dates and states as follows :—

'Whereas it is expedient that the Acts mentioned in the First Schedule to this Act should be made permanent, that the Acts mentioned in the Second Schedule to this Act should be repealed and that the Acts mentioned in the Third Schedule to this Act should be continued, as in this Act mentioned, together in each case with any enactments amending or affecting the same:

Section 1. The Acts mentioned in the first schedule to this Act shall to the extent specified in column 3 of that Schedule become permanent Acts and any provision in any Act in force at the date of the passing of this Act which limits the period for which any of these Acts or any parts thereof are to remain in operation shall cease to have effect.

Section 2. The Acts mentioned in the Second Schedule to this Act are hereby repealed to the extent specified in column 3 of this Schedule.

Section 3. Spent. (This obviously dealt with Schedule 3).'

The Schedules to this Act consist of a number of Acts grouped together. On page 1181 we find a similar Act, namely, the Expiring Laws Act, 1925, to deal with certain expiring laws by

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making some of them permanent, continuing some of them permanently and continuing the remainder for a limited period. On page 1226 we find another Expiring Laws Continuance Act, 1928, to continue certain expiring laws. On page 1227 we find an Expiring Laws Continuance Act, 1929, to continue certain expiring laws.

'Thus we see that this procedure of dealing with existing Acts in a group is well known in England and is being adopted there. Further the word 'permanent' which was vehemently objected to in this House also finds place in those Acts. Sir Erskine May says that this is a routine business almost every year.

'Coming to India, India Act I of 1938 of the Indian Legis- 11-30
lature, published in the *Gazette of India*, dated 5th March 1938, a.m.
is for repealing certain enactments. Act XXV of 1942 passed by the Indian Legislature similarly repeals a number of Acts and Regulations mentioned in the First Schedule and carries out amendments to various other Acts mentioned in the Second Schedule. Act II of 1948 of the Indian Legislature similarly repeals a number of Acts and amends the Indian Income-tax Act. Coming to Madras, Madras Act VI of 1937 similarly repeals a number of Acts. We find the same procedure adopted in Central Provinces as well as West Bengal. [Vide the Central Provinces and Berar Expiring Law Continuance and Amending Act XLVIII of 1947 and the West Bengal Laws (Amendment and Repeal) Act XII of 1947]. It is, therefore, clear that this procedure is well accepted and followed in the British Parliament and the same procedure is being adopted in the Indian and Provincial Legislatures. The reason behind this procedure seems to be obvious. Since the Acts to be affected are already on the Statute Book, which means that they were well considered and passed by the Legislature, there is no reason to bring them up one by one for giving them a fresh lease of life. If any hon. Member should object to any Act being continued or being amended in a particular manner, he can always bring up suitable amendments. An argument is advanced that the present Bill deals with a number of enactments passed during the Advisers' regime under the powers vested in the Governor under section 93 of the Government of India Act, 1935, and as such this House had no opportunity of discussing the said Acts. This is no doubt true, but it is the direct result of the changes which the constitution of this country underwent from time to time. If the Acts in question are really very important in the sense that they involve serious questions, I am sure that Government would have taken care to see that such measures were duly brought up for discussion in this House. But the Acts all appear to be very formal and routine things which do not deserve such a great deal of expenditure of valuable public time by taking them up individually. Further, this and the other two similar Bills have been supplied to hon. Members months ahead, and it cannot be said that hon. Members had no reasonable opportunity of bringing up suitable amendments if they chose. I, therefore, think there is no warrant or justification for drawing any distinction for this

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purpose between Acts passed by a duly constituted Legislature and Acts passed as a result of section 93 regime as long as they continue to be legal under the law for the time being in force.

"There is another point which has been discussed and to which reference should be made. On the 23rd February 1948 a motion was made in this House for agreeing to set up a Joint Select Committee for consideration of this Bill. The House agreed to that motion and appointed a Committee to work jointly with the Committee of the Assembly. I feel that such a fundamental objection as this ought to have been taken when that motion was made before this House. It cannot be said that this House had no opportunity of discussing the principles of this Bill then but simply blindly agreed to the setting up of the Joint Select Committee. The House could agree to such a motion only if it accepts the principles of the Bill. If not the House ought to reject such a motion, because it is futile to set up a Committee to consider the Bill first and later object to the very principle on which it is based. I, therefore, think that 23rd February 1948 was the proper time for raising such an objection though I do not give it as my ruling that points of order raising questions of illegality should not be taken up at any proper time when they are found necessary. For the reasons given above, I overrule this point of order and allow the discussion to go on. At the same time, I hope the House will agree that the time spent on the discussion of this question is not a waste. The point raised is a very important one and the discussion has helped me and the House to correctly understand the principles underlying such a procedure. I have, therefore, great pleasure in commending the Opposition for having raised this point and helped us in the proper understanding of Legislative procedure.

"The question is—

'that the Madras Re-enacting and Repealing (No. I) Bill, 194 (L.A. Bill No. 3 of 1948), as passed by the Legislative Assembly be taken into consideration at once.'"

The motion was put and carried.

Clauses 2 to 7 were put separately and carried.

The First Schedule, the Second Schedule, the Third Schedule, and the Fourth Schedule, and Clause 1 were put and carried.

Preamble.

The Preamble was put and carried.

SRI R. SURYANARAYANA RAO:—"Mr. President, Sir, before the Hon. Minister moves that the Bill be passed into law, I wish to point out a spelling mistake. In Clause 4 (3) (a), in line 2, instead of the word 'then' the word 'than' is printed. This requires correction."

* THE HON. SRI K. MADHAVA MENON:—"Sir, in my copy the word is 'then'.

23rd April 1948] [Sri K. Madhava Menon]

"I move, Sir, that the Bill be passed into law. I also agree with you, Sir, that the time taken in discussing the point of order has not been a waste. I am glad that a ruling has been given on the point of order. Dr. John was very vehement when he said that nowhere in the world have such things been done and he wanted to make people believe that nobody else knew the laws."

The motion that the Bill be passed into law was put and carried.

(2) THE MADRAS RE-ENACTING (NO. II) BILLS, 1948
L.A. BILL NO. 6 OF 1948).

* THE HON. SRI K. MADHAVA MENON:—"Sir, I move—
*'that the Madras Re-enacting (No. II) Bill, 1948 (L.A. Bill No. 6 of 1948) * as passed by the Legislative Assembly be taken into consideration at once.'*"

"This is similar to the Bill which we just now passed except for the difference that this is a re-enacting Bill. There is no repeal of Bills here. All the three Schedules to the Bill are to be re-enacted. The First Schedule relates to Acts permanently re-enacted, the Second Schedule relates to Acts permanently re-enacted with specified modifications, and the Third Schedule relates to Acts temporarily re-enacted for a period of one year. This Bill was referred to a Joint Select Committee of both the Houses and the Joint Select Committee has gone into the details of the Bill, and it has approved of this Bill. I have nothing more to add except to request the House to take this Bill into consideration at once."

The motion was put and carried.

Clauses 2 to 6 were put separately and carried.

The First Schedule.

The First Schedule was put and carried.

The Second Schedule.

The Second Schedule was put and carried.

The Third Schedule.

The Third Schedule was put and carried.

Clause 1.

Clause 1 was put and carried.

Preamble.

The Preamble was put and carried.

THE HON. SRI K. MADHAVA MENON:—"I move, Sir—
'that the Bill be passed into law'."

The motion was put and carried and the Bill was passed into law.

[23rd April 1948]

(3) THE MADRAS RE ENACTING (NO. III) BILL, 1948
(L.A. BILL NO. 14 OF 1948).11.45
a.m.

* THE HON. SRI K. MADHAVA MENON :—“ Sir, I move—
‘that the Madras Re-enacting (No. III) Bill, 1948 (L.A. Bill No. 14 of 1948), as passed by the Legislative Assembly be taken into consideration at once.’

“This is exactly similar to the other two Bills which we have just now passed with the difference that this has not been referred to a Select Committee or a Joint Select Committee. As I said, we have been for the last one year, examining all these Bills one after another. It took us so much time to complete our examination. The Schedule relates to the Local Boards Act and District Municipalities Act. These are mere administrative Acts. For instance, in the first Act, Government decided to have executive authority for Panchayat Boards and therefore they say that wherever the word ‘President’ occurs, the words ‘executive authority’ shall be substituted. The first Act was found necessary because Executive Officers are necessary for major Panchayats. The second Act in the Schedule relates to the extension of the terms of office of the Councillors and aldermen of the Corporation of Madras because in the case of municipalities, elections are over and therefore Madras Act XXIV is no longer required in their case but it is not the case with the Corporation and Panchayats, as neither Madras Act XVI of 1946 nor Madras Act II deals with these bodies. Hence the necessity of re-enacting this Act. The third Act in the Schedule relates absolutely to administrative matters regarding certain actions. Certain administrative difficulties were found during the past three or four or five years and to overcome those difficulties, this Act is found necessary and it is one which deals purely with administrative matters. Lastly, there is the fourth Act in the Schedule, the Madras District Municipalities and Local Boards (Amendment) Act, 1946. It is intended to defray the costs of maintaining certain roads by municipalities by taking them over by the Highways Departments, as the District Boards or municipalities had not sufficient funds to maintain them properly. After the taking over of these roads by the Highways Department, local bodies were not under any obligation to provide lighting, scavenging, drainage, watering, etc., for roads which had been taken away from their control. This Bill says that even though the roads have been taken over by the Highways Department, these local bodies should continue to provide the normal civic amenities such as lighting, scavenging, drainage, watering, etc., in the roads lying within their jurisdiction. These are the four Acts, Sir, that are sought to be re-enacted for the purposes I have mentioned.”

MR. PRESIDENT :—“The question is that a Bill further to re-enact certain enactments (L.A. Bill No. 14 of 1948) as passed by the Assembly be taken into consideration at once.”

The motion was put and carried.

* Printed as Appendix II on pages 282-284 infra.

23rd April 1948]

Clauses 2 to 5, the Schedule and clause 1 were separately put and carried.

The Preamble was put and carried.

THE HON. SRI K. MADHAVA MENON :—“ Sir, I move—
‘that the Bill be passed into law.’ ”

The motion was put and carried and the Bill was passed into law.

IV.—GOVERNMENT MOTIONS.

(1) AMENDMENT TO SCHEDULES III AND IV TO THE MADRAS DISTRICT MUNICIPALITIES ACT, 1920 (MADRAS ACT V OF 1920).

THE HON. SRI K. CHANDRAMOULI :—“ Sir, I move—
‘that the draft amendments to the Madras District Municipalities Act, 1920 (Madras Act V of 1920) which it is proposed to make in exercise of the powers conferred by section 305-A of the District Municipalities Act, 1920 (Madras Act V of 1920) be approved.’

“Sir, the draft rules have been placed before the House. They are self-explanatory. These are made for the convenience of the proceedings of the councils and these amendments are necessary for carrying on the administration with respect to taxation, etc. This is the sum and substance of these rules. These rules were made during the time of the Advisers. The rules were afterwards considered and necessary adjustments were made for administrative convenience and they are now finalized and placed before the House for approval.”

* SRI R. SURYANARAYANA RAO :—“ Mr. President, Sir, —I cannot say I am raising a point of order—but, if you see Re-enacting Bill No. III, there are certain amendments introduced there to the rules in various schedules. For instance, take page 11, in rule 4 (i) of Schedule II of the said Act, an amendment is proposed. Again take page 22. It is stated that in rule 2 of Schedule III to the said Act, after sub-rule (2), the following sub-rule shall be added, etc. Sir, while in certain cases the sub-rules form part of the regular Bills introduced, I do not understand why in respect of certain other rules, a motion of this kind should be made. They could have been straightaway included in the schedule to the Bill which the Hon. Mr. Madhava Menon introduced. I want to know whether these are rules framed under the schedules or they are rules amending the schedules.”

THE HON. SRI K. CHANDRAMOULI :—“ They are rules amending the schedules.”

SRI R. SURYANARAYANA RAO :—“ Therefore, they form part of the Act.”

* Printed as Appendix III on pages 285-290 infra.

230 AMENDMENT TO SCHEDULES III AND IV TO THE MADRAS
DISTRICT MUNICIPALITIES ACT, 1920 (MADRAS ACT
V OF 1920)

[23rd April 1948]

THE HON. SRI K. MADHAVA MENON :—“ The position is this. The District Municipalities Act, 1920, has got six schedules relating to various matters such as taxation and these schedules are passed as part of the Act. These rules have not been placed before the Assembly. But, now the rules relating to the schedules have to be placed before the Assembly. That is what is being done by Mr. Chandramouli. Sri Suryanarayana Rao referred to the Act of 1942 that is contained in the third Repealing Bill. The amendments there are to the main sections 306, 321, 363, etc., and the last amendment is an amendment to the schedule of the Act which is in the form that “ The following are to be added after such and such a rule.” The Advisers’ Government put the schedule as part of the Act instead of putting it separately. Therefore, the Hon. the Minister for Local Administration has brought in these amendments to those rules separately now.”

* SRI R. SURYANARAYANA RAO :—“ May I take it that the Advisers’ regime were not correct in taking the schedule as part of the Bill or Act which they have passed and that they should have put them separately? ”

THE HON. SRI K. MADHAVA MENON :—“ They could have done it.”

* SRI R. SURYANARAYANA RAO :—“ I can understand it. Instead of a schedule, it formed part of the Act. Sir, there is another defect in these rules to which I wish to draw the attention of this House. Evidently, Sir, till the Advisers took action in the year 1940, municipalities were not required to appoint municipal commissioners. We do not know what the rules are governing the appointment of municipal commissioners. As far as we are aware, a lower division clerk in the Secretariat or a Sub-Registrar in the mufassal or a District Panchayat Officer in a district can be appointed as a municipal commissioner. There are some who are holding these appointments of municipal commissioners simply because the Government took it into their heads to appoint unqualified people to these posts. In order that they may be trained, the municipalities are asked to pay the costs during the period of their training. Is it fair? What are the arrangements that Government have made for training municipal commissioners? Have they laid down the qualifications for recruitment of these municipal commissioners? Government did not do all that. Government want to appoint whomsoever they like for these posts of municipal commissioners. If so, why the municipalities should be asked to pay the cost of their training? Is it fair? It is true it was done during the Advisers’ regime. But is it fair on the part of a popular Government to impose a burden on a municipality simply because Government want the Commissioners to be trained? Government themselves concede that they

AMENDMENT TO SCHEDULES III AND IV TO THE MADRAS 231
DISTRICT MUNICIPALITIES ACT, 1920 (MADRAS ACT
V OF 1920)

23rd April 1948] [Sri R. Suryanarayana Rao]

should receive training but at the expense of the municipalities before they can discharge their duties satisfactorily. I wish the Government had not come forward with such an amendment.

“ Then, Sir, about the publication of the proceedings of the municipal councils. It is true that during the war, as part of paper economy, the publication of proceedings of municipal councils was dispensed with. But is it right to make it a permanent rule? Should the citizens be deprived of the knowledge of what is taking place in the municipal councils? Should they not have access to some public document such as the gazette in which proceedings would be published, to enable them to see what is being done by the municipal councils. All of them may not be visitors to the councils to know the proceedings. Therefore, there should be some public document to which they can refer and from which they can obtain the knowledge of what happens in the municipal councils and in respect of which they may make representations to the proper authorities. To prevent all that, Sir, is to deny the public the right to know what is happening in municipal councils. I do not think it is due to paper scarcity. For the present, paper scarcity may exist and it may cease afterwards. As soon as paper scarcity ceases, these proceedings must be published and the published documents should be available to any citizen who wishes to refer to them. Provision is made for the payment of travelling allowance to municipal commissioners for their journey on transfer. Who is the authority that transfers them? The municipal council is not consulted. Only when a vote of no confidence is passed by a two-thirds majority, the municipal council can be held liable. To impose a liability by forcing a commissioner on them whom they do not like and asking them to pay for transferring him, is not fair. (The Hon. Sri B. Gopala Reddi : Who is to pay?) It is the Government which appoint them and transfer them and punishes them. The municipality has no power to punish them. Simply because the Government think that a particular commissioner should be transferred say from Hindupur to Chicacole, the municipality should not be asked to pay his travelling allowance. It is not fair. The Advisers’ Government could have done whatever it liked, because they wanted to relieve the Government of the burden of paying all these.”

MR. PRESIDENT :—“ Who pays the salary of the commissioner? ”

* SRI R. SURYANARAYANA RAO :—“ The municipality pays. So long as he serves the municipality it pays him. Again it is the Government that decides what grade of municipal commissioner should be appointed to a municipality. A first-grade municipal commissioner, for instance, is appointed to a municipality whether that municipality is in a position to pay him or not.”

THE HON. SRI K. CHANDRAMOULI :—“ Certainly not.”

12 noon.

232 AMENDMENT TO SCHEDULES III AND IV TO THE MADRAS
DISTRICT MUNICIPALITIES ACT, 1920 (MADRAS ACT
V OF 1920)

[23rd April 1948]

* SRI R. SURYANARAYANA RAO :—" There is a provision that the income should be so much and so on. It may be that a person may become a first-grade commissioner because the Government think him to be competent to be a first-grade commissioner, but the municipality may not feel the same way. This is not covered by any of the rules.

" I feel, Sir, that in view of the Hon. Minister's intention to revise the whole District Municipalities Act and make it more democratic, I wish these rules had not been brought forward. He could certainly have asked for a short extension of life of one year to enable him to consider what amendments have to be made to the rules framed during the Advisers' regime. There is no need for the Government at any rate to bring forward all the rules and re-enact them permanently."

THE HON. SRI K. CHANDRAMOULI :—" Sir, the hon. Member, Mr. Suryanarayana Rao, has raised some objections to some of the rules that have been placed before the House. The municipal commissioners are no doubt appointed by the Government, but they were appointed not as Government servants but as servants of municipalities. There is a distinction between Government servants and local bodies servants. When once they are appointed, they become part and parcel of the administration just like other servants of the municipalities. They come under the same category. That is why the necessary expenditure should be borne by the municipalities themselves. At first the Government appointed certain people as municipal commissioners, as my hon. Friend, Mr. Suryanarayana Rao, pointed out, but afterwards specific rules were made with regard to the appointment and promotion of the officers concerned—the deputy panchayat officers, the panchayat officers and the commissioners. Commissioners are now mainly recruited from the deputy panchayat officers upwards and the managers of first-grade municipalities."

SRI R. SURYANARAYANA RAO :—" Mainly recruited and not solely recruited."

THE HON. SRI K. CHANDRAMOULI :—" There will always be some exceptions however perfectly the rules may have been framed. That is why, it is but proper that so long as the present position of the municipalities and the local boards continues, they should bear all these costs. I can assure Mr. Suryanarayana Rao that hereafter practically there will be no need for the training of these people. It is only a temporary phase. Even there the Government may bear a part of the expenditure. There is some provision.

" Sir, as for the publication of the proceedings of the municipal councils, Mr. Suryanarayana Rao himself admits that there is paper scarcity. So long as the scarcity is there, this rule should continue,

AMENDMENT TO SCHEDULES III AND IV TO THE MADRAS 233
DISTRICT MUNICIPALITIES ACT, 1920 (MADRAS ACT
V OF 1920)

23rd April 1948] [Sri K. Chandramouli]

When once there is plenty of paper, I assure him that this will be repealed. Also, Sir, as he has himself observed, we are going shortly to propose new Bills regarding municipalities and local boards. We may bring in a comprehensive Bill in the light of all these remarks. I therefore request the House to accept the motion."

SRI N. SANKARA REDDI :—" Suppose a sanitary inspector who is a municipal servant is appointed as a Municipal Commissioner and transferred, then who is to pay his travelling allowance? "

THE HON. SRI K. CHANDRAMOULI :—" The municipality concerned."

The motion was put and carried.

(2) AMENDMENT TO SCHEDULES II, IV, V AND VII TO THE MADRAS
LOCAL BOARDS ACT, 1920 (MADRAS ACT XIV OF 1920).

THE HON. SRI K. CHANDRAMOULI :—" Sir, I move—

'that the draft amendments to the Madras Local Boards Act, 1920 (Madras Act XIV of 1920), which it is proposed to make in exercise of the powers conferred by section 201-A of the Madras Local Boards Act, 1920 (Madras Act XIV of 1920), be approved.'

" These amendments are also on similar lines to the amendments which we have already discussed. I hope the House will accept the amendments."

SRI R. SURYANARAYANA RAO :—" Sir, I hope that the assurance that the Hon. Minister gave with regard to the publication of the proceedings of the district municipalities will apply to this case also and that as soon as the necessity for the restriction ceases, he will restore the old position."

* THE HON. SRI K. MADHAVA MENON :—" Sir, there is no necessity to restore the former rule which made it obligatory to publish the proceedings in the Gazette. Under the present rule, the proceedings should be published in the office, should be sent to the Collector and a few other officers. Even now it is open to the District Board if they can get the money and the paper to publish the proceedings. There is no need to compel them to publish the proceedings."

SRI R. SURYANARAYANA RAO :—" Sir, it is clearly stated that the intention of the amendment is to dispense with the publication of the proceedings of the district boards. We want to make publication obligatory on the district boards."

THE HON. SRI K. CHANDRAMOULI :—" I have assured the hon. Member already that this question will be looked into when the necessity for it ceases. It need not be repeated several times."

The motion was put and carried.

[23rd April 1948]

(3) AMENDMENT TO SCHEDULES IV, V AND VI TO THE MADRAS CITY MUNICIPAL ACT, 1919 (MADRAS ACT IV OF 1919).

THE HON. SRI K. CHANDRAMOULI:—"Sir, I beg to move—

'that the draft amendments to the Madras City Municipal Act, 1919 (Madras Act IV of 1919) which it is proposed to make in exercise of the powers conferred by section 347 (5) of the Madras City Municipal Act, 1919 (Madras Act IV of 1919) be approved.'"

The motion was put and carried.

III.—GOVERNMENT BILLS—cont.

(4) THE POLICE (MADRAS AMENDMENT) BILL, 1947
(L.A. BILL NO 38 OF 1947)

MR. PRESIDENT:—"The Hon. the Finance Minister."

* THE HON. SRI K. MADHAVA MENON:—"I am moving it on behalf of the Hon. the Finance Minister. I am in charge of it."

MR. PRESIDENT:—"He is here. I suppose there will be no point of order about the Bill being moved by another Minister while the Minister in whose name it stands is here."

* THE HON. SRI K. MADHAVA MENON:—"If there is any such thing, the Hon. Minister may leave the Chamber, Sir."

"Sir, I beg to move—

'that the Police (Madras Amendment) Bill, 1947^b (L.A. Bill No. 38 of 1947), as passed by the Legislative Assembly be taken into consideration at once.'

"This Bill is intended to amend section 15-A of the Police Act, 1861. Section 15 of the Act says that it shall be lawful for the Provincial Government under certain circumstances to notify any particular area as a disturbed area. Section 15-A says:

'If in any area in regard to which any proclamation notified under the last preceding section is in force, death or grievous hurt or loss of, or damage to, property has been caused by or has ensued from the misconduct of the inhabitants of such area or any class or section of them, it shall be lawful for any person, being an inhabitant of such area, who claims to have suffered injury from such misconduct to make, within one month from the date of the injury or such shorter period as may be prescribed, an application for compensation to the Magistrate of the district or of the subdivision of a district within which such area is situated.'

"Sir, compensation can be claimed only if the area is notified beforehand as a disturbed area. Suppose, Sir, unfortunately something happens in Madras to-day. It has not been declared a disturbed area, so nobody can claim any compensation. What is proposed to do is to omit the words 'in regard to which any proclamation notified under the last preceding section is in force' so that anybody who suffers loss on account of rioting, unlawful assembly and so on may claim compensation. It need not necessarily be in a notified area. A man may reside in Madras and something may happen to his property in Vaniyambadi. Now the owner will not be able to claim compensation because he is not an inhabitant of the particular area. It is proposed to remove the

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words 'being an inhabitant of such area,' so that a person who suffers a loss, wherever he may be, may be entitled to claim compensation. The object of the amendment to enable the Government to collect the necessary amounts from the aggressors or persons responsible for the aggression and persons who have been behind the aggressors and grant compensation to the unfortunate person who may be living in any locality."

SRI B. NARAYANASWAMI NAYUDU:—"Mr. President, 12-15 p.m.
Sir, I rise to make a strong protest against the Bill. I have heard of Bills and I ask the members sitting opposite, what is the real purpose and scope of this Bill. We have had the Public Safety Act passed in the teeth of opposition. We have got a little Charles I in this Bill. What does it say? Any place where there is murder or a grievous hurt or a plunder or it may even be the burning of a hut, will be notified as a disturbed area. Supposing a riot occurs in an ordinary town and there is clash of arms between persons and in another place some property is looted, what is the ordinary law to be followed and what is the law that you now propose? I ask the Hon. Mr. Madhava Menon, though the Bill is put down in the name of Mr. Gopala Reddi, what is the difference between the two and why do you want power while the ordinary law is there. Section 15-A of the Police Act says, 'If in any area in regard to which any proclamation notified under the last preceding section is in force, death or grievous hurt or loss of, or damage to, property has been caused by or has ensued'

The whole object of the Police Act is to declare an area as a disturbed area. Therefore, to take away the operation of the ordinary law in that area and substitute it by what may be called collective responsibility, not with reference to certain individuals, what is the idea behind it? Under the provision, if a certain riot takes place or a person dies, it is for the Magistrate of the district to notify that particular place as a disturbed area. Again in clause 2 (2) of the Bill, you want to renumber clauses (a), (b) and (c) as clauses (b), (c) and (d), respectively, of section 15-A of the Police Act and to add a new clause (a) and according to that clause, the Magistrate shall proceed to say that such and such inhabitants of a particular area are the persons who are responsible for this and compensation shall be leviable from them. Therefore, you don't fix the locality, you don't fix the number of offences and you don't say how the Magistrate shall act. You simply say that when a murder occurs, the Magistrate is the person to say that point A to B in a certain area is a disturbed area and the inhabitants thereof are liable and then the Magistrate proceeds to assess the damage and give it to the persons concerned for compensation. What is the scope of the Police Act of 1861? It has only to deal with what may be called disturbed areas, where the condition is such that it is not in a peaceful state and the ordinary law cannot be administered. Why do you take away the *sine qua non*, namely, the condition of the place there is such that you cannot apply the ordinary law. If a man is murdered, what is the ordinary law to give damages to him and against whom you should proceed? If property is plundered, there is the civil court to proceed against the person who has caused the damage to property

^a Printed as Appendix V on pages 297-305 infra.

^b Printed as Appendix VI on page 305 infra.

[Sri B. Narayanaswami Nayudu] [23rd April 1948]

but what is this law? This law is not an ordinary law. It gives power to the District Magistrate to say that the inhabitants of a certain area shall be liable to pay for the damage caused and for the murder, arson or loot in that place. He can declare point A to point B in Fort St. George to be a disturbed area and that all persons in that area should contribute to the levy. Is it the way you administer the law? Should there not be foundation for an emergency law like that? At least, should not there be a limitation of what may be called universal law or anything of the stamp in regard to a place which really can be said to be in a disturbed condition. On the other hand, it simply says 'if in any area death or grievous hurt, loss or damage to property is caused' what is the loss of property? After all it may cost Rs. 10. It may be a case of plunder and the loss may amount to lakhs of rupees; or it may be a grievous hurt and a man might have broken one's tooth. What the Police are doing now and what the Government do is, when there is a grievous hurt, the Magistrate notifies the place, settles the case and makes the person responsible to pay the amount. What I beg to submit is, why are you arming the Magistrate with such powers? We have had the Public Safety Act arming the Government with regard to liberty of the individual and now we have got an Act arming the District Magistrate with certain powers. Even if there is to be a small riot in a particular place, he can say at once, I declare that to be a disturbed area and I declare such and such person as the person liable to pay compensation, say, Rs. 200, Rs. 500 or Rs. 1,000. Now the power is illimitable and the power is given to the Magistrate to declare a person as the one who has caused an injury, fix the amount of compensation to be paid by the inhabitants of a particular area to be declared and so on. Therefore, in all seriousness, I ask the hon. Members sitting opposite, why, when there is the ordinary law, you are willing to arm the District Magistrate with such powers? What will happen is, you will get the workers in a place going to the District Magistrate complaining that a certain man has been murdered and ask him to declare that area to be a disturbed area and to pay them compensation for the loss. Is it what you want? Is it what you are legislating for? Is the ordinary law not sufficient for you? If, for instance, there is murder, or pillage in a particular place and you cannot control it by the application of the ordinary law, you have to proclaim that area to be a disturbed area at once. Supposing, I get away from that place rather than face the trouble of paying compensation, I am no longer a resident of that area. According to this provision, even though I may be somewhere in the world and if some riot occurs, my hon. Friend, Mr. Madhava Menon, may declare that area to be a disturbed one. Of course, I am above board . . . (The Hon. Sri K. Madhava Menon: 'I will instruct the Magistrate.') That is exactly the reason why you should not arm the District Magistrate. Of course, you can break the tooth of my hon. Friend, Mr. Farookhi, and make me a pauper. Is that the power which you want?"

MR. PRESIDENT:—"I think the hon. Mr. Farookhi will do well to clear away from this place."

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SRI B. NARAYANASWAMI NAYUDU:—"Then, your followers will come and worry you if you declare that area as disturbed area and ask for the levy of compensation. If you are going to give such powers to the Magistrate it will lead to the execution of the person sponsoring the law, and the abuse of them. What are the historical facts which you have got? From the year 1867, when the foreign Government was there, it was able to manage only with those powers. You who claim to be representatives of Government, the popular party, safeguarding individual liberty, you cannot carry on unless you arm the District Magistrate with powers and also give him powers to assess the amount of compensation to be paid and for declaring the area to be a disturbed area. You have got the power, and as has been said, it may be wise to have it but it should not be used in a tyrannical manner. I am not for giving such a power to the District Magistrate to declare that such and such an area is a disturbed area. There ought to be a limit to which you can go."

ABDUL LATIF FAROOKHI SAHIB BAHADUR:—"Mr. President, Sir, I am also one with Mr. Narayanaswami Nayudu, to record my emphatic protest against Acts of this nature being placed on the Statute Book. Sir, I have always felt ever since I came to this House—particularly after the declaration of independence, I have expressed my views—though they have fallen on the deaf ears of this Government yet I am sure they would certainly be useful to the public to take stock of what is going on and how they are to act in the future before the next election comes that this Government has become panicky. (Sri B. Narayanaswami Nayudu: 'Not panicky, but despotic'.) I quite agree with my hon. Friend, Mr. Narayanaswami Nayudu that this Government has become despotic; it has become Fascist. But this Fascism and despotism are naturally the result of panic. I feel there is no necessity for such extraordinary powers. There is no necessity for this Government to invest the District Magistrate with such extraordinary powers. My hon. Friend, Mr. Narayanaswami Nayudu was right in saying that this Police Act has been in force for a long number of years and that it has been used by a foreign Government quite successfully. Now, what is the extraordinary situation that has arisen, one cannot understand, to warrant such an enactment. (Sri B. Narayanaswami Nayudu: 'They won't tell it now'.) Sir, I agree with some of these gentlemen who feel that situations may arise when Government have to be armed with extraordinary powers. Sir, at least in our Province, by God's grace, such a situation has not arisen and why should we give room to people to become panicky and why should people really understand that such a situation is going to arise in the future and therefore, Government is arming itself with such extraordinary powers. I think, Sir, that this will create a very bad impression upon the public. In fact the Police Act has been continuing for a long time and it has not been in any way inadequate to maintain the peace of the land. Such being the case I do not feel any necessity for amending the Act at the present moment."

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"Now, Sir, any area could have been declared a disturbed area. The Government had that power. Even for any small excuse, an officer who is vested with the power can declare an area as a disturbed area on account of a small incident. No doubt, there are very good officials in the Government and there are also people to whom such powers should not be entrusted and it is dangerous also to entrust such powers to people who, though they occupy big positions, may misuse such powers. Unless the Government feel that an extraordinary situation has arisen and that an area has to be declared a disturbed area, one cannot understand why the Government want to take such extraordinary powers. I, for my part, will say that any law-abiding citizen will certainly support the Government that in an extraordinary situation the Government should be given extraordinary powers to maintain peace and law. Now, all of a sudden, the Government comes forward with a Bill, whether any such situation has arisen or not, to arm the District Magistrate with powers to declare any area as a disturbed area. If there is a small incident, and as my hon. Friend has suggested, a hut might have been burnt or a small injury might have been caused or my friend may break my tooth or I may break somebody's tooth, of course there is some consolation and you are right in saying, we may leave the place and go away. Perhaps after going away I may find that a great damage has been caused. Therefore, Government are not right in putting such powers in the hands of District Magistrates. There is another difficulty which I feel should be avoided in such cases. Is it a case of a single individual that has to pay compensation or is the Government going to entrap a whole body of people? I feel that the Government, though they have not expressed in so many words, are perhaps thinking of a particular class of people whose political ideas may not be very palatable to them. Most probably, it is possible that their political opponents may have to come under this category. (Sri B. Narayanaswami Nayudu: Why 'may have'?) Because I want to be cautious in using my expression. My friend is perhaps positive that it is going to come. It is because I want to be cautious I used the expression 'may have to come'. The political party which is opposed to the ideals of the present Government or the party in power, such a political party may have to come under the powers that are sought to be granted to the District Magistrate and such a political party have to pay the penalty for the whims and fancies of a Government which wants to retain power. Therefore, I feel it is very dangerous. But in the interests of democracy, it is necessary that the number of laws should be as limited as possible. When a Government which was not a democratic Government, a Government which was carried on by people who were not of our way of thinking and who were not mindful of our interests, I mean, the British Government, and has carried on the administration and kept up peace and order for a long time with the laws that were prevailing in those days. I ask, is it not feasible, is it not desirable, for a democratic Government like ours to carry on the Government with those laws, even to limit the number of such laws and see that greater liberty is

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given to the people. The object in getting independence is to make the people happy, make them feel that they are the owners of the land, that they are the people on whom the administration of the law rests and that they would not be entrapped or put in prison without lawful reason. Sir, now this Government has been going on in a reckless manner and in a manner which is beyond the comprehension of the people who were holding out very great hopes of independence. People have been put in prison. Your political opponents have been put in prison, people who have said that they have no connection with the movement which was in the opinion of the Government dangerous, have been put in prison, while there is no need to do so. Nobody knows when they are going to be released or set at liberty, and nobody knows what were the reasons that actuated the Government to put them in prison. All these things are going on not before the 15th August 1947 but after that red letter day in the history of our great land. Now, Sir, we have made ourselves the laughing stock of the people outside. What will happen if this state of affairs is brought to their notice? No doubt I am aware that there will be great press censorship and our Government will not allow all the troubles committed on the people of the land to be broadcast to outside countries. Sir, I am certain that in France, England and other places where democratic Governments are carried on, people will say, "what are these fellows in India that even after having achieved Independence, they have not been able to administer their own country properly and so do not deserve independence." That will be the feeling outside the country due to the manner in which this Government is carried on. As a matter of fact, the large number of enactments that have been passed after 15th August 1947 only go to show that this Government has no confidence in the public. Perhaps they cannot control the public. Probably this Government feels they may not continue longer and that is the reason why they have become panicky and that therefore, they are passing law after law and placing all sorts of laws on the Statute Book which are detrimental to the liberty of the people and which go against the ordinary elementary principles of democracy. Therefore, I think it is necessary that they should not only not pass such Acts but repeal all those Acts that have been passed after August 1947 and also repeal all those Acts passed by the Advisory Regime. Instead of repealing and bidding good-bye to all those Acts and making our people breathe free air the Government says 'no', we are going to harness you and put round your neck more and more burden and harness you with a greater number of laws, so that you cannot raise your heads. That is the impression which any common man in the country will have. Therefore, I would appeal to the Government to reconsider the position. I only make this as an appeal because I know, though optimistic you are, you have always felt that discussions of this nature can go a great way to help rather than to do any harm and no doubt there is very great force in that argument. Sir, but for your very humorous and genial temperament this House should have been a very dull House (Dr. V. K. John: 'Hear, hear'). The Leader of the Opposition says, 'Hear,

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hear' that is quite right and every member of the House feels very thankful to you for putting that spirit in them. Sometimes we feel that there is no spirit in us. Now, Sir, what I say is this. Though much purpose will not be served by discussions of this sort, this is going to serve a very great purpose, thought not to-day. My hon. Friend opposite seem to think, why should we care for the discussion, what are these fellows going to say and even if they say anything we are not going to hear but brush aside all the criticisms that are levelled against us. They may be feeling what will be the repercussions and its after effect. Now, we are watching only the aftereffects and I say it is going to be very adverse to the party in power. In spite of my difference with them, I feel, that of all the parties, this is the best party in the land, at least for the present. I say, do not lose the good name. There are other people who are going to occupy your place. My hon. Friend says, that for the future also this party is going to be a good party. I say it is very good for the future also. So, do not allow other people to snatch away that fair name from you and there are people who want to do it. You know, Sir, and the Members of this House know, that there are people who are coming here and addressing public meetings criticizing the Congress Party that is in power and lakhs and lakhs of people are going there and listen to all these. What will be the effect of all these on the minds of the people who hear such speeches? In fact, most of the remarks that fall from the lips of these people are correct, because you are exposing yourself to such a charge and the ordinary man thinks that this party in power which has gained power some time back has been so intoxicated with power that they are not going to listen to anybody except what they are going to do and they are not amenable to reason. I appeal to the Government to yield to reason and see that justice is done to other people and not brush aside with contempt the remarks that fall from the lips of the Opposition. Such being the case, I say that extraordinary powers should not be taken by the Government and such powers should not be vested in the hands of people who may perhaps misuse those powers. Then, Sir, I also appeal to the Government to see that when powers are entrusted to District Magistrates they do not use those powers against people who are opposed to the party in power in order to please the party in power. Let not the District Magistrates become victims of prejudice; let them not use those powers in order that the opponents of the present party in power may be oppressed. Therefore, with all the vehemence at my command I feel that I should record my very strong protest against this Bill and I feel that the opposition is quite justified in opposing measures of this kind."

* SRI C. N. MUTHURANGA MUDALIYAR:—"Mr. President, Sir, I have been hearing the speeches of Mr. Narayanaswami Nayudu and Mr. Farookhi Sahib. No doubt, as Mr. Narayanaswami Nayudu would say, I am going to support this Bill whatever speeches they make, but I do not want to give a silent vote in supporting this Bill. On the achievement of Independence, from the 15th August 1947, I very much wished there need be no

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Government, there should be no law and that there should be no police or courts. I mean, for such a contingency to arise, the people must also be good. They must all be law-abiding citizens. (Interruption.) I do not want to be interrupted. I will come to you later. People must also be honest and sincere. They must also feel that the Government is theirs and that the country is theirs; they must be non-violent and truthful and so long as there is non-violence in the land there is no need for any law or for any police or courts.

"Sir, when there is violence about us, there must need be 12-45
a Government, a good Government as it now exists in our midst p.m.
and they must also have laws. Laws were enacted by the foreign Government—the Advisers' Government. Many a Member in this House had been Members of that Legislature in those days also but they were implicitly supporting every measure that the foreign Government were enacting. Such an opposition voice was not raised at any time before. It was only the Congress that had acted as an Opposition and even before that, without any party name, Congressmen, as the main opposition, had raised their voice against the undesirable legislation enacted by the foreign Government.

"But, to-day the same Congress Ministers have to enact this legislation, not because they take pleasure in doing it, not because they are despotic ministers, not because they want to develop Fascism in them but because they want to see their country governed properly, to see their country peaceful and that every citizen gets his due. Sir, we had ourselves encouraged the N.G.Os. to become unruly and strike work against the Government Servants Conduct Rules; we have been instrumental in encouraging the workers to become unruly; we had encouraged the scavengers to throw stones in the very Secretariat and we had encouraged the docile teachers to strike work and go in procession in the streets of Madras. Buses were burnt; windows were broken. All these things had happened in this very city of Madras. Now, the N.G.Os. at Calcutta have struck work and are adopting *Satyagraha* against the Government of India. I am told that our friends in the Communist Party have encouraged them to do so in order to destroy the existing Government and take power in their own hands. That may or may not be their ambition. But so long as the Government is there and so long as the present situation prevails in the land, the Government must rule with the necessary legislation. Many a reference was made to District Magistrates. The District Magistrates were there during the days of the foreign Government. Then, District Magistrates were thinking that they were the servants of the foreign Government and the foreign Government was paying them. Now, District Magistrates are people's servants and they are all free men and they are free citizens of this land. Now, a new situation has arisen. The District Magistrate or any Government servant is a free citizen of the land. He has as much right to do as we, in this House, have got. Under these circumstances, there is no use complaining about District Magistrates. They are merely carrying out the orders of the

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Government in order to see that peace prevails in the land. That is the position. Mr. Farookhi Sahib referred to the Government as despotic and fascist. I would request him to tour for a week in the Western Pakistan and find out whether Fascism is existing in the Western Pakistan or in Madras. That will convince him where Fascism exists. That is all I wanted to say. That is my opinion. As I begin I end it. I do want to see that there is no Police Raj, that there is no Military Raj and that citizens must be peaceful and non-violent. They should not try to cut at each other's throat as they have been trying to do in Mannargudi. I am sorry, I have to say this."

DR. V. K. JOHN :—" Mr. President, Sir, before I criticise this Bill, I must refer to a suggestion which amounted to a ruling given by you, Sir, on a former occasion that when the Government want to introduce a Bill to amend an Act, they must print side by side the section which is being sought to be amended. On this side of the House, protests were made from time to time that when Bills were introduced to amend existing Acts we should be supplied with copies of existing Acts or at least particular sections concerned. When we took up this point, you found that it was a point well worth your consideration and after consideration, you made a suggestion which normally, Sir, coming from you, is a direction. I call it direction, because it was accepted by the Government and carried out by the Government in a number of Bills which they introduced.

"Now, Sir, they want to amend section 15-A of the Police Act, 1861. Now, they have not given side by side section 15-A of that Act which they want to amend. It is quite possible, Sir, that they do not want the members of this House and the public, who might get a copy of this Bill, to understand the enormity of the change which they want to introduce into this section. I am not attributing any motives but I say that the direction given by you has not been followed by the Government. Hereafter, we propose not to have anything to do with the Bill which is introduced in this House without the section being printed side by side. But I make an exception here. I give this warning: If they do not follow the direction of the President of this Council, we will not be contributing anything to the discussion and we would rather ignore the Bills which they introduce in this manner which is very, very irregular."

MR. PRESIDENT :—" This direction was followed in other Bills. Perhaps, this is an oversight here."

* THE HON. SRI K. MADHAVA MENON :—" This is an oversight here, Sir, and even in the Finance Bill we supplied it."

MR. PRESIDENT :—" I believe you will assure the Leader of the Opposition that this will not occur again."

DR. V. K. JOHN :—" I am glad the Hon. Minister has said that it is an oversight. Oversight with the Government is the rule and carefulness the exception. Anyway, I have the assurance that

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this is an oversight. I hope that there will not be another oversight. Now, having criticised the form in which it is introduced, I want to say how serious this amendment is.

" Sir, the Police Act was passed in 1861. Then, Sir, the bureaucratic government found that an amendment was required to that Act and they introduced section 15-A in 1895. Section 15-A made a very serious inroad on the liberty of a subject. Sir, section 15 gives them the power, by proclamation notified in the official Gazette, to declare any area to be in a disturbed or in a dangerous state. Now, Sir, they could post special police force in a disturbed area and after posting they could ask the inhabitants of such area to bear the expenses of the Special Police. Thus and section 15-A were introduced in 1895. Certain consequences follow from the provisions of 15-A and one of the consequences was to pay damages to those injured either in person or property and to assess the proportion in which the same shall be paid by the inhabitants of such area, other than the applicants who shall have been exempted from law to pay. Imposing of fines on the inhabitants is something like a procedure adopted under martial law. In spite of one's best efforts, some disturbances might occur which attract section 15-A and many innocent persons might suffer. Liberty-loving Indians have protested from time to time against the introduction of section 15-A but there is one mitigating circumstance, one salutary provision in section 15-A. All the consequences followed only if the proclamation was notified in the Gazette. If that proclamation was not notified, section 15-A was not attracted. The effect of that proclamation would be to warn every inhabitant residing in that area, that the area is notified as 'disturbed area' so that they know the consequences beforehand once it is notified as 'disturbed area.' They must make special efforts to see that there is no disturbance there and that there is no injury to person and property. This section provided for giving notice to persons who are to be fined or who are to be assessed. Now, what does this popular Government do—I ask them not to appropriate that name which they do not deserve—they say, no notification is required under section 15-A. Although the area is not notified, you will still be able to be assessed to damages. What is the reason for not notifying it? A single murder may be enough; a grievous hurt may be enough. After it is committed, the Government can say that they will assess persons and fine them. It is atrocious that this subject should be treated in such a manner by a National Government. Sir, is there any reason why they should improve upon, in a retrograde manner, section 15-A which itself was a limb of martial law introduced by the British Government. We have found that this Government is sleeping over important matters as they have slept for two years in re-enacting Acts passed under section 93. Now, do they think that they can sleep over till an offence is committed and then notify an area as a disturbed area. Why should they not first give notice to the inhabitants so that the inhabitants may know that it is a disturbed area."

MR. PRESIDENT :—" The hon. Member can continue his speech after lunch."

The House then adjourned for lunch to meet again at 3 p.m.

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(After lunch—3 p.m.)

DR. V. K. JOHN :—“ Mr. President, the Act of 1861 was amended in 1895, the original section 15 was amended and 15-A was also added. Section 15 was amended provided for a proclamation that additional police will be quartered in disturbed or dangerous districts and also provided that the cost of additional police should be apportioned by the inhabitants of such area notified in the proclamation. This apportionment is to be according to the judgment of the Magistrate and it is to be according to the means of such inhabitants and not according to his participation in the crime. To be assessed to damages one need not participate in the disturbance, it is sufficient if he did not use his influence to prevent the disturbance. Somebody in that area might have committed the crime, it is proclaimed to be a disturbed area and then everybody, unless exempted, will have to pay the cost of additional police. Section 15-A also provides that if anybody is injured in the proclaimed area that person may be given compensation. Under section 15, the proclamation is to be notified in the official Gazette. The Government do not want to amend that but they want to omit the proclamation provided in section 15-A. I feel that the Government have not the slightest idea of the purpose for which sections 15 and 15-A exist. Section 15-A provides that persons who may not have been parties to any crime still will have to pay compensation simply because they are inhabitants of that area. The fundamental condition is that these people will be told beforehand that it is a disturbed area and they were liable to pay compensation unless they use their influence to prevent any disturbance and they could apply for exemption giving grounds for that exemption. Now the very essence of that section is being taken away by Government. Do the Government forget that there are laws in this country under which a person unjustly injured can be paid compensation. In fact section 15-A says that no suit shall be maintainable in respect of any injuries for which compensation has been awarded under this section and this enables the person to receive compensation not only from the person who injured him but also from all the inhabitants of the disturbed area. It is clear that the inhabitant who is not responsible for the disturbance must certainly know that it is declared as a disturbed area. I am labouring this point because I feel the Government in introducing the amendment do not seem to understand the principle underlying sections 15 and 15-A and they have knocked the bottom off section 15-A by saying that no proclamation is required. The inhabitant is defined as a person who by himself or by his agents or his servants occupy or hold lands, or other immovable property within such area and landlords who by themselves or their agents or servants collect rents from ryots, . . . though they do not actually reside there. A man may be living in a particular place and he may be owning property in an area a hundred miles away. There will be a notification in the gazette declaring that area as a disturbed area and then the person must rush to that place though he lives far off to see that no offence is committed. But the amendment introduced by the Government says that they will not

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declare that as a disturbed area, and if any disturbance takes place, the inhabitants whether they reside in the area or not will have to pay compensation. This is worse than vicarious liability. In vicarious liability, there is some relation between the man who commits the offence and the person who is to pay compensation just as the owner of a car is liable for the injury or damage caused by the driver; section 15-A provides for something much more than a vicarious liability; under it there is no relationship between the person who commits the offence and the person who is liable to pay compensation and the only provision of law which attracts the attention of the person who is otherwise to pay compensation is the notification made in the official gazette giving notice to everybody in advance that an area is a disturbed area. Can any popular Government, conscious of the liberty of the subject, conscious of the right to property of any subject, can any civilized Government bring in such a legislation and say: “After a man commits the offence, although one may not be responsible, we will declare the area as a disturbed area and one will have to pay compensation.” I say, Sir, this is against the elementary principles of justice and democracy and goes much farther than what a bureaucratic Government did in 1895. Are the Government telling the House and the country that ever since they took over the Government of the country, disturbances have been on the increase; and yet they say they are a national Government and a popular Government. Under such a Government, one would expect disturbances to go down and we must have greater peace. Do the Government want to tell everybody that after the British left we are in greater trouble and without giving notice, they must take away one's property? This is not only interference with the freedom of the subject but also expropriation. The other day we passed a law enabling Government to declare any place as a disturbed area enabling even a Police Inspector to shoot a man without giving him a warning; is that not enough; then previous to that we passed a law under which a man could be interned, externed, detained or thrown into prison without trial and hundreds of them are languishing in prison without trial and without an opportunity to go before a court of law and now you are bringing another law saying that without any proclamation after some offence is committed, although a person may be innocent yet merely by reason of the fact that he owns property there, he will have to pay compensation and section 15-A says that an assessment made by a Magistrate shall be final but subject only to revision by the Provincial Government. I have properties in Kodaikanal and some offence might be committed there; and although quite innocent, I shall be liable to pay compensation in spite of the fact that no declaration is made that the area is a disturbed area. The Magistrate assesses what I am to pay consistent with my means and I cannot go to a court of law to question it as that is final. I am afraid Government do not understand what they are doing and if they do understand the principle of section 15-A, surely they will not go further than a provision introduced by a bureaucratic Government which makes innocent persons liable to payment of compensation. This is the

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3-15 p.m. law that is being introduced in the House and the Government want us to support it. According to my friends on the other side there is not one Bill introduced by the Government during the last two years which deserves criticism and we are expected to congratulate the Government and say: "How nice of you to bring this law to expropriate property and to curtail the liberty of the individual?" The Government have not cared to promote the welfare of the common man for the protection of which the Opposition exists. My learned friend might get up and say: "The criticism of the Bill is all trash."

THE HON. SRI K. MADHAVA MENON:—"I will not only say but also prove to his satisfaction that this is trash."

DR. V. K. JOHN:—"The only witness whom he will call for that purpose is himself. The Government are amending an Act without studying its provisions carefully. The Government want to omit the words "being an inhabitant of such area" occurring in section 15-A (1). Under this amendment, a person need not be an inhabitant of the disturbed area to claim compensation. He can be somewhere else. The proviso to section 15-A (2) says that the Magistrate shall not make any declaration or assessment unless he is of opinion that such injury had arisen from a riot or unlawful assembly *within such area*. When one sub-section says that a person who is not an inhabitant of the area can claim compensation, another sub-section says that the Magistrate cannot assess unless the injury is sustained within the area. Both these are inconsistent. The Government do not want to amend the proviso to sub-section (2). They have brought forward an amendment to sub-section (1) which is nugatory. They have no proper persons to advise them."

MR. PRESIDENT:—"I think 'injury' includes injury in property also."

DR. V. K. JOHN:—"They enlarge the scope of section 15-A by bringing in persons who need not reside in the area eligible for compensation. But why this craze for making innocent persons liable to pay compensation which is an extraordinary thing to meet an extraordinary situation? You have enacted half a dozen other laws and with them you can meet any situation. I submit that any sensible citizen of this Province must oppose this Bill tooth and nail, because it is brought in in ignorance of the principle underlying section 15-A of the Police Act and in total disregard of the elementary principles of justice and equity. I oppose the Bill."

* SRI R. SURYANARAYANA RAO:—"Mr. President, Sir, hon. Members of this House know that when a Bill for the suppression of disorders in the Province was brought forward and the Member in charge of that Bill was not present in the House, we begged the Member at that time in charge of the Bill to convince us about the need for the Bill. You may remember that no answer was forthcoming. The Leader of the Opposition

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has now shown what a serious change is being made in the Police Act of 1861. Why should this popular Government feel the need for a change which was not considered necessary from 1861 to 1948 even by a bureaucratic, foreign Government? No reasons were given by the Hon. Minister who introduced the Bill. In the Bill for the suppression of disorders in the Province, power was taken by the Provincial Government to declare an area to be a disturbed area, and after the declaration only there would be consequential enhancement of punishment for certain offences committed in that area. If I have understood the present Bill correctly—I am not a lawyer; I am only a layman—the declaration of an area as a disturbed area is not necessary for levying fine on the people of the area to compensate the injured. Unfortunately in our district, punitive police is stationed in many places. Even last week's gazette announced that punitive police would be stationed in a place in Cuddanah district. I think the announcement was made under the Police Act of 1861. Before stationing punitive police and asking the people to pay the cost of its maintenance, the place is declared a disturbed area. If this Bill is passed, no declaration is necessary. If the Government so desire, to-morrow they may send police to a particular area and ask the people to pay for the maintenance of the police."

THE HON. SRI K. MADHAVA MENON:—"Not at all."

SRI R. SURYANARAYANA RAO:—"If that is not so, then why are you afraid of declaring an area as a disturbed area?"

MR. PRESIDENT:—"As it is, the declaration is there. The present Bill provides for giving compensation for an injury sustained in a riot or unlawful assembly before the declaration is made. Is that correct?"

THE HON. SRI K. MADHAVA MENON:—"As Dr. John said, the implications of the amendment have not been properly understood. To grant compensation for any injury sustained, a declaration is not necessary. A declaration is necessary for recovering the cost of stationing additional police force."

SRI R. SURYANARAYANA RAO:—"I am very grateful for this clarification. Why should not the present method of declaration and the taking of consequential steps be retained? The Government have not made out a case for dispensing with declaration in the matter of granting compensation. When the people of the locality are made to pay for the compensation, they must at least know that they belong to a disturbed area. Otherwise why should they be asked to pay? The District Magistrate or any other officer authorized by the Government may come and say: 'An injury has happened to a certain person or property in your area. Therefore, you must contribute towards a share of the compensation to be paid.' Who is to demarcate the area? Unless a declaration is made, how are the people to know that they are in a disturbed area? This is a very curious method of trying to compensate the injured people. In the exuberance of your sympathy for the injured

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people, innocent people who may not even be aware of the disturbance and who may not at all be responsible for it are asked to pay. If some of us have not been able to understand the implications of the amendments, it is due to the disability that we have not got the original sections. As a layman, I feel that it is wrong to give up the declaration of an area as a disturbed area, whether it is for paying compensation, for stationing punitive police, or for any other purpose. Therefore, I feel that this Bill should not be supported by this House."

3-30
p.m.

SRI M. NARAYANA MENON:—"Mr. President, Sir, when I heard my hon. Friend Dr. John very anxiously speaking about this section, I thought that I should read it once more to see whether the liberties of the people are in any manner taken away by the present amendment. If, in fact, the amendment takes away the liberties of the people, then of course, all of us would feel with him and suggest necessary amendments. But as I read the section, it seems to me that there is no cause for such anxiety whatsoever.

"Sections 15 and 15-A need not be read together because the one has nothing to do with the other so far as the present amendments are concerned. Section 15-A as it stands reads as follows:—

"15-A. (1) If in any area in regard to which any proclamation notified under the last preceding section is in force, death or grievous hurt or loss of, or damage to, property has been caused by or has ensued from the misconduct of the inhabitants of such area or any class or section of them, it shall be lawful for any person, being an inhabitant of such area, who claims to have suffered injury from such misconduct to make, within one month from the date of the injury or such shorter period as may be prescribed, an application for compensation to the Magistrate of the district or of the subdivision of a district within which such area is situated.

(2) It shall thereupon be lawful for the Magistrate of the district, with the sanction of the Provincial Government after such an enquiry as he may deem necessary and whether any additional police force has or has not been quartered in such area under the last preceding section to—

(a) declare the person to whom injury has been caused by or has ensued from such misconduct;

(b) fix the amount of compensation to be paid to such persons and the manner in which it is to be distributed among them; and

(c) assess the proportion in which the same shall be paid by the inhabitants of such area other than the applicant who shall not have been exempted from liability to pay under the next succeeding sub-section."

"According to this section 15-A, a grievous hurt or loss or damage to property, etc., must have been caused or must have ensued from the misconduct of the inhabitants of an area in regard to which the proclamation notified under the preceding section 15 has been in force. Under section 15, there must be a proclamation notifying an area to be a disturbed area. In that area, such a thing must happen; the person must be a resident in that area; he must have suffered damage to his property and if he applies for compensation, this section says that these things will happen. That is what is implied in section 15-A. The amendments in clause 2 (i) of the Bill says that the words 'in regard to which any proclamation notified under the last preceding section is in force', and the words 'being an inhabitant of such area', shall

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be omitted, in sub-section (2) of section 15-A. Therefore the section as amended by this clause will read thus:—"If in an area, death or grievous hurt or loss or damage to property has been caused by or has ensued from the misconduct of the inhabitants of such area, or any class or section of them, it shall be lawful for any person who claims to have suffered from such misconduct to make, within one month from the date of the injury or such shorter period as may be prescribed, application for compensation to the Magistrate of the district or of the subdivision of a district within which such area is situated." That is to say, any person can apply for compensation who has sustained loss or damage to his property, and the hurt or damage need not happen only in a notified area for the purpose of claiming compensation. It may happen in any area, but it must be due to the misconduct of the inhabitants of that area. If in a certain area, the inhabitants behave in such a manner as to cause injury to property or to life, etc., then to such an area, the provisions of this section will apply. But who is entitled to compensation? Is it only the person resident in that area? No. According to this amendment, any person can claim compensation who has suffered damage. What is the kind of damage that that person can suffer? Certainly it cannot be personal injury, because he does not reside in that area. Therefore it must be injury to his property. Even such a person is entitled to compensation, according to this amendment. I must ask my hon. Friends opposite, how is it that this amendment takes away the liberty of the people? As a matter of fact this amendment goes a step further and affords protection to a person who might not be a resident of the locality, but whose properties must have suffered damage and entitles him to claim compensation. This amendment only gives an additional right and does not take away any existing rights. I am quite unable to understand Mr. President what are the liberties of people which my hon. Friends opposite are so anxious to safeguard and why is it that they are so much perturbed about, because any person, whether he is a resident in the locality or not can claim compensation if he has suffered any damage to his property. There need be no anxiety whatsoever on that account. In effect, these two amendments simply remove certain conditions laid down in the original section and make it applicable to a larger number of people who are legitimately entitled to compensation.

"Now Sir, the anxiety of my hon. Friends opposite probably appears to be that if an area is not declared to be a disturbed area, and if any loss or damage happens to a person, he can have no legal means of claiming compensation. If that is their anxiety, then I say they are quite wrong. It is not so. That is not the proper way to look at things. If we look at the present circumstances in the country and the conditions that are prevalent all round, it is possible that at any moment, without any previous notice, any catastrophe might happen or perhaps some serious riots might take place in any area and great loss or damage to properties might occur. In such a case, there is no provision under which compensation can be claimed by the person affected, if

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section 15-A is not amended as proposed in the present Bill. Events are happening with such quickness and rapidity in these days that any man or any village might be affected at any moment. Take for instance the Chirakkal taluk. More than 500 or 600 people entered several houses and took away all the properties. They need not necessarily be Communists. Suppose the area is not a notified area and suppose the person who has suffered damage to his properties is not a resident in that place then how can he claim compensation unless the present amendments are allowed. We simply cannot keep quiet when such things happen, without vesting the necessary powers with the Government to deal with such a situation, when it arises. Therefore, this amendment, as I said just now, confers a further right and a further benefit and does not take away any existing rights of persons who have suffered loss or damage to their property.

"So, when members opposite were waxing eloquent over rights and liberties of people being sought to be taken away by this Bill, I thought that I had not properly understood the section and the implications of the Bill. But now when I have read it again, I have become perfectly confirmed in my view that the amendments are absolutely necessary and the Government are perfectly justified in taking powers to deal with such situations as might arise."

DR. V. K. JOHN :—"The hon. Member is in the same position now."

SRI M. NARAYANA MENON :—"Sir, we have heard each other and we are in the same position as we were before. But when he was expressing so much anxiety over these amendments, a little bit of anxiety also overtook me, and that is why I have read the section and the amendments a second time and I am now in the same position as I was before and I am confirmed in the view I have already taken."

"Then Sir, another amendment is sought to be made by clause 2 (ii) of this Bill and it is this :—

"In sub-section (2), clauses (a), (b) and (c) shall be re-lettered as clauses (b), (c) and (d), respectively, and the following shall be inserted as clause (a), namely :—

"(a) declare the limits of the local area the inhabitants of which have, in his opinion, been guilty of such misconduct or caused or contributed to the same."

"This is in fact a necessary consequential amendment, if the previous amendment is to be allowed, because under the previous amendment, death or grievous hurt or loss to properties must have been caused in a certain area, not notified. It might be that the persons who have caused such loss might be residents elsewhere and therefore the officer should be given powers to declare the limits of the local area the inhabitants of which have, in his opinion, been guilty of such misconduct or caused or contributed to the same."

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"Sub-section (2) of section 15-A of the original Act lays down certain procedure to be adopted and empowers the Magistrate of the district to cause certain enquiries and assess the guilt of persons in the locality and to afford compensation for the persons affected. This amendment (ii) to sub-section (2) empowers him to declare the limits of the local area, the inhabitants of which, have, in his opinion, been guilty of such misconduct or caused or contributed to the same. This is simply a consequential amendment."

"I therefore submit, Sir, that the amendments contemplated in this Bill merely confer certain additional benefits and do not take away the liberties of the people, and nobody, including my hon. Friend Dr. John need be anxious about the people affected, because their rights are only better safeguarded by these amendments."

* THE HON. SRI K. MADHAVA MENON :—"Mr. President, Sir, I must confess that I am guilty to a little extent of the charge of Mr. Suryanarayana Rao that I did not, when I introduced this Bill, explain at length the full scope and implications of these amendments and the circumstances that have necessitated us to bring forward this Bill. For this, Sir, I must admit that I was a little bit misled by the reception that I had to this Bill in the other House. In the other House members of the opposition, whether they belonged to the Muslim League group or to the Independent Group were vying with each other in complimenting the Government on having brought a Bill like this and not only that, but some of the members went to the extent of asking the Government to give retrospective effect to these amendments. As a matter of fact, Sir, in the Select Committee, it was proposed by certain members that the Bill must be given retrospective effect because of the benefits that it seeks to confer to certain people who have been affected. It was because I thought, Sir, that it was such a plain thing, which is really intended to confer benefit to certain people and not harm anybody that I did not explain at any great length the full scope and purpose of the Bill. But when I heard my hon. Friends Mr. B. Narayanaswami Nayudu, Dr. John, Mr. Suryanarayana Rao and Mr. Farookhi, I was a little bit astonished and was left with this impression to pray God, as Jesus did, 'Oh Father!, Forgive them, for they know not what they are saying!'"

"Sir, my hon. Friend Mr. Narayanaswami Nayudu was charging me with effrontery, temerity and arrogance and things of that sort."

"If I am guilty of these charges I am sorry for it because arrogance has to be answered by arrogance and I shall not fail to do so. As the law at present stands there is no legal liability on the part of the Government to pay any compensation for losses sustained as a result of a civil commotion and such a payment, if at all, can only be made on an ex gratia basis and under very special and exceptional circumstances. As far as can be gathered

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3-45 P.M. there are only two instances in the Province where such compensation was given. One was in 1921 when the Moplah Rebellion took place in Malabar. In that example the area was not notified as a disturbed area under the earlier Act. And what is the effect of the position if the amendment is not there? The effect of the position if a civil commotion happens in a place in an area which is not notified will be this. I will take the example of Dr. John himself. Dr. John possesses properties in Kodaikanal. Suppose there is a civil commotion and unfortunately a riot happens and Dr. John's house is destroyed, which God forbid and Dr. John who is residing in Madras cannot claim compensation because the section says that only an inhabitant of that area can claim compensation. And Dr. John is not an inhabitant of that area. Therefore we wanted to clear the difficulty. If Dr. John is permanently residing in Madras and if unfortunately a civil commotion happens in Kodaikanal the Government must have an opportunity to compensate him because without his knowledge Dr. John's property has been destroyed and he is not responsible for it. We want that those who have benefited by it and those who have taken part in the riot and looted Dr. John's house and wrecked his property and shared the loot between them should not be allowed to share it with immunity but they must be compelled to disgorge a portion of it if not all and it must be given back to Dr. John who resides in Madras. That is one of the objects. (Dr. V. K. John: They means who?) Those who looted. In 1921 a civil commotion happened, namely, the Moplah riot and then it was not a notified area. Looting was going on indiscriminately for months together. No compensation could then be given ex gratia. Therefore under the special orders of Government fines were collected from the people and compensation was paid. Then in 1942 during the Civil Disobedience Movement there were various places where houses were burnt and offices looted. In such cases the Government under the special Act that was in force collected collective fines from the areas and then paid compensation to those who suffered. There are only two instances like that. Unfortunately after the 15th of August there has been a serious wave of communal disturbances all over India. Luckily for us it has not spread to this Province. All the other Provinces in India did the identical thing of taking powers, because otherwise no compensation could be given. To give compensation in areas which have been affected by any sort of civil commotion and properties in those places have been destroyed, whether they were destroyed by a particular set of persons or they connived at that destruction, they must be asked to pay. For that after the 15th of August every other Provincial Government in India took the power and we took a little longer to do it as we were considering whether there would be any necessity for taking such a power. But unfortunately here also something happened in Tiruvannamalai and Erode. (Interruption.) I do not want to go into the details of what happened in other places, Sir. There is no necessity for creating unnecessary feelings.

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"Sir, as Mr. Narayana Menon pointed out there is no connection between sections 15 and 15-A. I appreciate Mr. Suryanarayana Rao's statement that he did not understand. He does not know as much law as Dr. John or Mr. Narayanaswami Nayudu are supposed to know."

DR. V. K. JOHN:—"Does the Hon. Minister appreciate him, Sir, because he did not understand?"

SRI B. NARAYANASWAMI NAYUDU:—"I am only supposed to know law, Sir. I agree Sir, that the law-makers know more laws than I do!"

THE HON. SRI K. MADHAVA MENON:—"I agree, Sir, I am the law-giver for the time being. There is no doubt about that. I only repeated what Mr. Suryanarayana Rao himself said, Sir. I appreciate what he said. (Interruption.) If he thinks the cap fits him he may take it."

SRI B. NARAYANASWAMI NAYUDU:—"I am taking it, Sir."

* THE HON. SRI K. MADHAVA MENON:—"Section 15 relates to quartering of additional police in a disturbed area. In an area which is declared by the Provincial Government to be in a disturbed area, section 15 gives power to the Government to quarter additional police there. That section gives power to inflict fines and recover the cost of that police from the persons concerned. That is what section 15 says. What does section 15-A say? That section says in any area which is declared to be a notified area if some commotion happens and some property is damaged the person applying to the Government for compensation should be an inhabitant of that area. That is section 15-A. Dr. John wanted to make out that Dr. John may stay in Madras but the offence may be committed in Kodaikanal and that he will be asked to pay. That is not section 15-A. That is a travesty of the intention of section 15-A. If an offence, civil commotion or riot or something happens in a particular place which is a notified area any inhabitant of that area can apply to the Government for compensation. This is the procedure after application. After application as I said two things are necessary for a person to claim compensation. It must be a disturbed area. And he must be a resident of the locality. Who is an inhabitant of the area is defined by section 15. Section 15-A says: If, in any area in regard to which any proclamation notified under the last preceding section is in force, death or grievous hurt or loss of, or damage to, property has been caused by or has ensued from the misconduct of the inhabitants of such area or any class or section of them it shall be lawful for any person, being an inhabitant of such area, who claims to have suffered injury from such misconduct to make, within one month from the date of the injury or such shorter period, etc. . . . an application for compensation to the Magistrate of the district, etc. That is section 15-A. Section 15-A is an enabling

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section. As Dr. Johnson said—I am sorry, Sir, I mean Dr. John—it does not say that the inhabitants must be fined. This is an enabling section asking the Government for compensation for the loss that is sustained.”

MR. PRESIDENT:—“I do not think Dr. John will object to be called Dr. Johnson.”

THE HON. SRI K. MADHAVA MENON:—“I am not so sure, Sir.”

DR. V. K. JOHN:—“Sub-clause (6) says that the word ‘inhabitants’ shall have the same meaning as in the last preceding section. In the explanation to section 15 it is stated who is an inhabitant for the purpose of that section.”

MR. PRESIDENT:—“Section 15-A enables a person who is an inhabitant of that area to claim compensation. The whole argument of Dr. John is that section 15-A makes a person even if he is not an inhabitant of a locality to pay. Does it?”

DR. V. K. JOHN:—“It does, Sir. Section 15-A says that the Magistrate can assess the proportion in which compensation shall be paid by the inhabitants. Then sub-section 6 says that the word ‘inhabitant’ shall mean what it means in section 15. Section 15 says that an inhabitant is any person owning property, etc. Then he can be assessed for payment of compensation.”

MR. PRESIDENT:—“If his action is responsible.”

DR. V. K. JOHN:—“So many fellows can be exempted, Sir. But they can be assessed. We are unable to understand how he cannot be assessed. The Government are showing their ignorance.”

THE HON. SRI K. MADHAVA MENON:—“As you are pleased to observe, Sir . . .”

MR. PRESIDENT:—“What happens if the clause is removed.”

THE HON. SRI K. MADHAVA MENON:—“Anybody can claim compensation although he is not an inhabitant.”

SRI B. NARAYANASWAMI NAYUDU:—“Anybody in the whole world? And pay also?”

THE HON. SRI K. MADHAVA MENON:—“As you said, Sir, section 15-A is an enabling section. It enables a person, Sir, even though he is not a resident to claim compensation. If the words are removed anybody can apply.”

DR. V. K. JOHN:—“Anybody in the street?”

THE HON. SRI K. MADHAVA MENON:—“Any person who claims compensation, Sir, should have suffered some injury from such misconduct. Not any person in the street can claim.”

MR. PRESIDENT:—“What about his objections to paying?”

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* THE HON. SRI K. MADHAVA MENON:—“I am coming to that, Sir. Therefore this enables the person who has suffered a damage to claim compensation. The sub-sections determine the way in which compensation is to be paid. It reads: It shall thereupon be lawful for the Magistrate of the district with the sanction of the Provincial Government after such enquiry as he may deem necessary, etc. It is there that Mr. Narayanaswami Nayudu charges me with effrontery. He says that the Government will give instructions to the Magistrate. I say they will, Sir. If a Magistrate after proper enquiry finds that it is necessary and wants order of the Government in a case like that the Government will certainly give their sanction. Is it effrontery? The section says that the District Magistrate after proper enquiry gets the sanction of the Government. It is not effrontery, Sir. It is something else. Then the section says what the Magistrate is to do with the application. The Magistrate shall declare to whom the injury has been caused and shall have the amount of compensation fixed and paid to such person and assess the proportion in which the same shall be paid by the inhabitants. That is what Dr. John objected to. The section says: Assess the proportion in which the same shall be paid by the inhabitants of such area other than the applicant who shall not have been exempted from liability to pay under the next succeeding sub-section. Here the Magistrate will enquire and establish who are the persons who should be subjected to the penalty. Mr. Narayanaswami Nayudu stated that if he knew that it was a notified area he would run away from that area. That is not the question. Supposing in the Armenian street where the banks are situated there is a riot and properties are looted and the money is distributed among persons. It is not a notified area. We have no power to collect that money. Then are we to allow the persons to enjoy the fruits of their dacoity? No. If we can possibly find who are the persons who have joined, why should not we make them disgorge that money and pay the same to the persons who have suffered. (Interruption.) It is only where the ordinary law does not permit that this law will come in.

“It is imagination running riot to say that Dr. John in 4 p.m. Nungambakkam will be asked to pay compensation in Kodaikanal unless he has connived and helped the people to do something, which I do not think Dr. John will do, and no Magistrate will ask Dr. John to pay. Sub-clause 2 gives powers to Magistrates to take the necessary steps to find out who are the persons liable. In the proviso, it is stated—

‘Provided that the Magistrate shall not make any declaration or assessment under this sub-section, unless he is of opinion that such injury as aforesaid has arisen from a riot or unlawful assembly within such area, and that the person who suffered the injury was himself free from blame in respect of the occurrences which led to such injury.’

There is another safeguard also. It is—

‘It shall be lawful for the local Government, by order, to exempt any persons or class or section of such inhabitants from liability to pay any portion of such compensation.’

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This is the import of section 15-A. What are we now attempting to do by this amendment? In Tiruvannamalai some time back communal trouble happened. Some houses were burnt. Property had been looted. Supposing that a particular section of the people had looted some lakhs of rupees, if that area was not a notified area, nobody could claim any compensation. Now the Government want power, if anybody applies for compensation, to make an enquiry as to how much the people have suffered and also to find out whether the blame could be pitched upon any one set of persons, and then collect the money from them and pay compensation. That is what we attempt to do. Because troubles—mostly communal troubles—are happening now, and we want to know the persons or the aggressor community or section of the people and ask them to pay compensation to those innocent people who have suffered loss in men and property at their hands. I cannot understand all this bogey of a popular Government acting against the spirit of democracy or that we are kicking off the very steps by which we have come into power. We saw that in subsection (1) of section 15-A, the words 'in regard to which any proclamation notified under the last preceding section is in force' may be omitted so that even in an area where there is no proclamation, if by any accident or set of circumstances any civil commotion takes place, or some disturbances occur, the people in that area, who have suffered losses on account of the disturbances, may be enabled to get compensation. This is the object of the amendment. There is nothing here to warrant imaginary grievances of any man in the street being asked to pay compensation."

MR. PRESIDENT:—"Am I right in understanding the amendment in this way? The effect of the amendment to subsection (1) of section 15-A, i.e., the removal of the phrase 'being an inhabitant of such area' enables a person who is not a resident in that area to claim compensation."

THE HON. SRI K. MADHAVA MENON:—"That is the position, Sir."

MR. PRESIDENT:—"As regards the rest of the section, i.e., the question of payment of compensation, this amendment does not affect it. The section is left as it is."

THE HON. SRI K. MADHAVA MENON:—"Yes, Sir."

MR. PRESIDENT:—"The question as to who is to pay is not affected?"

THE HON. SRI K. MADHAVA MENON:—"No, it is not affected."

MR. PRESIDENT:—"Am I right in understanding the amendment thus?"

THE HON. SRI K. MADHAVA MENON:—"Yes, Sir."

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SRI R. SURYANARAYANA RAO:—"If the injury is caused by those who do not belong to that area?"

* THE HON. SRI K. MADHAVA MENON:—"There is no change in that part of the section, Sir. Mr. Narayanaswami Nayudu asked 'What is this law? The Collector can declare any person or anyone to do anything. Do you in all seriousness say that this is a law?' I have explained what we mean by this amendment. I cannot understand why we should not be serious. We are awfully serious to give relief to the innocent sufferers. I have explained this fully."

"Mr. Farookhi lodged an emphatic protest. Throughout his long speech, I could not find one word about the amendment or the principle underlying the amendment. He simply said 'this is despotism; this is Fascism; this is against all principles of democracy, and this is directed against political opponents.' I do not understand the relation between this amendment and political opponents. After that red letter day, many people were put in jail and many were detained. What has that to do with this amendment? After that red letter day many events have happened in the country, and a provision like this for compensation has become necessary. That is all I can say with regard to that objection."

"Dr. John first protested that Government have not supplied copies of section 15-A of the Police Act, 1861, to this House. He made an insinuation which I strongly resent and protest."

MR. PRESIDENT:—"May I request the Hon. Minister not to be so sensitive to all this?"

* THE HON. SRI K. MADHAVA MENON:—"I am not sensitive, Sir. I am as thick-skinned as a rhinoceros to receive criticism. But it should not mean that we cannot hurl back the criticism on those who made it, i.e., that copies of the existing section 15-A were not supplied to members and that Government disobeyed the direction given by you in this behalf. Copies of the Acts or sections relating to every other Bill have been supplied to hon. Members of this House. By some means or other, copies of section 15-A have not been supplied to hon. Members. To insinuate that we wanted to disregard your direction is unfair."

MR. PRESIDENT:—"I made it quite clear then that I did not take it in that sense."

* THE HON. SRI K. MADHAVA MENON:—"It is said, Sir, that section 15-A makes a serious inroad into the liberties of the people. I may ask what is the inroad that I have made into the liberties of the people. It must be remembered that we are only amending the section in two places. One is that notification is not necessary to apply for compensation and the other is that the injured person need not necessarily be an inhabitant of that area. This would enable a greater number of people to apply for compensation. To say that this is an inroad into the personal liberties of

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people, as Dr. John said, is, I may say, *suppressio veri*. He said that innocent persons might suffer by this amendment. I say that if they would suffer even otherwise they will suffer now also. Government have powers to exempt, by order, any person or class or section of such inhabitants from liability to pay any portion of such compensation. I do not understand Dr. John's assertion. I am now making a counter assertion. Either he does not understand the provision or wilfully wants others not to understand it correctly. He says, to use his very words, 'by this amendment a person who is one hundred miles away becomes liable to pay. If a person, remaining 100 miles away, gives advice to his agent in the area to commit mischief, and if that can be proved, then that person, even if he be 1,000 miles away from the area, shall become liable. This is not the result of the amendment. But there are persons who injure people themselves keeping away from the place. They are covered by this section. (Interruption by Dr. John.) It is said that without notifying the area, we are taking away another man's property. Sir, that is not the amendment. These phrases and words are not warranted by this amendment. All the time my friend Dr. John was saying that this Government would not allow criticism and that we were not infallible. We are always prepared to be convinced. But they always try to show that we are in the wrong. I say, Sir, that expectation will not be fulfilled.

"Mr. Suryanarayana Rao said that according to the amendment a declaration that it is a disturbed area is not necessary to apply for compensation. Suppose, to-morrow some civil commotion happens in any part of this Province or some communal riot takes place. For claiming compensation for the loss suffered, it need not necessarily be that the area should be a declared area. That is what this amendment seeks to do. He felt that Government could to-morrow impose Police on a particular tract and collect money from the people in that locality. That is under section 15 and not under this amendment.

"Sir, the objections raised by Hon. Members do not really stand any examination."

The motion that the Police (Madras Amendment) Bill, 1947, as passed by the Legislative Assembly be taken into consideration at once was put and declared carried.

Mr. B. Narayanaswami Nayudu demanded a poll, and the House divided thus—Ayes 17, Noes 7.

Ayes.

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|---|------------------------------------|
| (1) The Hon. Sri O. P. Ramaswamy Reddiar. | (9) Sri N. Sankara Reddi. |
| (2) The Hon. Dr. T. S. S. Raman. | (10) „ N. Venkatachalamati. |
| (3) The Hon. Sri K. Madhava Menon. | (11) „ C. N. Muthuranga Mudaliyar. |
| (4) Sri K. Venkataswami Nayudu. | (12) „ A. Govindachariulu. |
| (5) „ M. Narayana Menon. | (13) „ C. Perumalaswami Reddiyar. |
| (6) „ B. Bhaskara Rao. | (14) „ M. K. Sundarama Ayyar. |
| (7) „ S. K. Satagopa Mudaliyar. | (15) Mrs. M. Hansman. |
| (8) „ M. Narayana Rao. | (16) Sri G. Venkata Reddi. |
| | (17) „ C. Veerabhadra Rao. |

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Noes.

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|---|-------------------------------|
| (1) Dr. V. K. John. | (4) Sri A. Gopalakrishnayya. |
| (2) Abdul Latif Farookhi Sahib Bahadur. | (5) „ H. M. Jagannatham. |
| (3) Sri B. Narayanaswami Nayudu. | (6) Dr. S. ed Tajuddin Sahib. |
| | (7) Sri K. Suryanarayana Rao. |

Neutral—Nil.

The motion was declared carried and the Bill was taken into consideration.

Clause 2.

SRI B. NARAYANASWAMI NAYUDU :—“ Sir, very vehement arguments have been used. I am not supposed to be a lawyer pretender nor members on the Treasury Benches are pretenders. But, they are not having absolute knowledge of the law. Now, what is the point under dispute? The point under debate in this case is about compensation, whether a person who has received an injury or whose property is looted should not apply for compensation. Is it the point that Government wants to make? If you say that he should not, then you are taking away the elementary right of civil liberty. Now, what is civil liberty? It is that a person's property will not be taken except with the knowledge of a court of law. What does it mean? It means that if a man plunders my property, then I am liable to compensation. The ordinary law of the land says that if a plunder takes place, Government must disgorge the plunderer. This elementary need you want to refuse. That is why I say that is an inroad upon the rights of ordinary law. The ordinary law says that if a man is injured or if his property is looted, then he has a right to seek compensation. If you deny that right, then it is an inroad into the ordinary law of the land. We have no rhinoceros heads though the Hon. Sri Madhava Menon may say that he has got a rhinoceros skin to receive any amount of criticism. My hon. Friend was saying that when a person is hurt and when his property is looted and plundered, the plunderer must not be disgorged. That is the point at dispute. What is the meaning of vicarious liability? I say, when A, B or C is liable under the Act, and if he is left scot-free, then it is an inroad into the personal liberty of others. Sir, I say, this Act itself is an amplification of martial law.”

MR. PRESIDENT :—“ Suppose the amendment is not there and the Act only is there. What is the position? ”

SRI B. NARAYANASWAMI NAYUDU :—“ Then, we need not have to discuss it here. Even the original Act as it is, is an encroachment on personal liberty.”

MR. PRESIDENT :—“ The question is, are we taking away the rights of the individual in the original Act, by means of this amendment? ”

SRI B. NARAYANASWAMI NAYUDU :—“ Yes, Sir. The Government says, as soon as there is a disturbance or plunder or

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p.m.

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looting in any area, they rush the Police force there. But, do they take care to see that hooliganism is prevented? Is it merely by passing of the Act that it can be prevented? No. Suppose you send about ten or twelve police people where there are about forty people engaged in plunder. I ask, is it going to protect the people there? It is not. What is the law in this case? If you send ten or twelve police where there is a big rioting, it is not going to save the people. You may say that under the law, you have sent the police force to protect the rights of the citizens. But such laws do not really protect the life and property of the citizens but are only on the Statute Book. Therefore these laws are what may be called the fiat. How are you going to protect the society, if you are going to exempt A, B or C, who plunders or loots? Is there civil liberty, I ask. The point is when Government declare a particular place as notified where a plunder occurs, for instance, say Nungambakkam, the area is defined. As the Hon. Minister has said, the area cannot be taken as Nungambakkam plus Mylapore. Therefore, if a person who is liable to compensation goes out of that area to a different area and some other person makes the application in the disturbed area, is he to get the money? Is there any sense in the Government's proposal? The point at dispute is not whether the money is robbed or not, but the point is that if the money is robbed, who is going to get the compensation. It may be that some other person who is not entitled may swallow the money at the expense of many people. It is like what Hitler said: 'for every German life, we will take ten lives.' Similarly, are you going to make the inhabitants pay for this?"

MR. PRESIDENT:—"The hon. Member should note that there are now two things. Firstly, there is the original Act as it is. The second thing is, how the present amendment affects it. The arguments advanced by the hon. Member are against the Act itself. My point is, how does the amendment make the Act worse. I have no objection if the hon. Member says that he is arguing against the Act itself but what has it to do with the amendment?"

SRI B. NARAYANASWAMI NAYUDU:—"My answer is this. This Act is an encroachment on civil liberty."

MR. PRESIDENT:—"We are not concerned with the Act as it is."

SRI B. NARAYANASWAMI NAYUDU:—"Sir, the original Act itself is an encroachment on the personal liberty of an individual and this amendment makes further encroachment. You can see how the previous Act was framed. It was framed to arm the police with punitive powers. It is martial law. Sir, as soon as martial law is declared in any place, the ordinary law is displaced. My hon. Friend Sri Narayana Menon said that the dispute was about the applicability of the compensation. The real question is, who is to pay the compensation. Is it going to be

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determined under the ordinary law of procedure or under this law? If it is under this law, then I say it is a drastic encroachment on the individual's elementary right. What is the duty of the Government? If there is a disturbed area, the Government should rush the police there. Even after sending the police, if you are not able to maintain law and order, you are not entitled to ask the inhabitants to pay. I ask, is the Government going to rob Paul and pay Peter. Then, what is it that you want under this amendment? Whoever says that compensation should not be paid? But, the question is from whom that money is to come. The real question is, by whom that compensation is to be paid and how it is to be paid. If it is under the ordinary law, we can have recourse to the evidence law. If it is under this law the Hon. the President himself has pointed out that it is an encroachment on personal liberty and sanctity of private property. It makes a vicarious liability. Dr. John has also stated that this Act makes a vicarious liability because the Government get the money from the persons in the disturbed area. The Hon. Sri Madhava Menon says, that a man one hundred or one thousand miles away may connive with a man here. In that case, we have got the ordinary law to deal with such persons."

MR. PRESIDENT:—"I am as much a citizen as Mr. Narayanaswami Nayudu is and I am anxious to properly understand the scope of this amendment. I am glad Mr. Narayanaswami Nayudu raised the question of an individual's civil rights but Government seem to be thinking of sudden conflagrations taking place such as those that occurred in Calcutta or Naakhali when huge loss of life and property may occur. Simply because the place is not a notified area, our people who suffer such enormous loss of property or who sustain serious injuries should not go without any remedy. That is the position which the Government are trying to meet. That is why they have brought this first amendment. In this amendment, it is suggested that simply because a particular place has not been notified, people who suffer stupendous and enormous loss of life and property should not go without compensation. It is to meet such a situation that Government want this amendment and I do not see any reason why the hon. Member should object to it."

SRI B. NARAYANASWAMI NAYUDU:—"The premises, namely, that a person should not receive compensation is wrong. The whole question is, who is to pay the compensation?"

MR. PRESIDENT:—"There are two amendments in this Bill. One amendment is the removal of the proclamation and another amendment is the removal of the words 'being an inhabitant of such area.' I am only dealing with the first amendment. The hon. Member opposes the amendment for the removal of the proclamation, because he thinks that it affects the right of the individual more than the original Act does. About the removal of the words 'being an inhabitant of such area,' I want to know what objection the hon. Member has."

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SRI B. NARAYANASWAMI NAYUDU :—" My point is that persons and property may be protected and law and order may be maintained only if Government station the necessary force in that area. Government should not say, ' we will not rush police force to the disturbed area; we will not maintain adequate police in order to maintain law and order, but we will throw the responsibility on the heads of the inhabitants themselves in the disturbed area.' Government cannot say so."

MR. PRESIDENT :—" Suppose the area has not been notified previously and a man suffers a serious loss in that area. What is the remedy? Is he to be compensated or not? "

SRI B. NARAYANASWAMI NAYUDU :—" He has to be compensated under the ordinary law. In the original Act itself, there is an inroad into private property. It should be made applicable only in extraordinary circumstances. Therefore, the criticism made that it is an imaginary grievance is entirely wrong. It is a negation of personal liberty. I say it goes further. How? Because, Government fail in their elementary duty to keep the necessary forces there to prevent such a disturbance taking place. A disturbance may occur in Mylapore and the persons responsible may have gone to Nungambakkam. Then, what is the effect of the notification? It rests entirely upon the Ministry and the Government to declare which inhabitants and which areas shall be liable to pay. Therefore, it is not a question of compensation but it is a question of vicarious liability. Again, the real point is who is asked to pay the compensation? Is it the persons which the magistrates try that should pay the compensation or the persons who actually swallowed the money, who should be asked to pay the compensation? "

4-30 P.M. MR. PRESIDENT :—" The amendment does not affect that question. The hon. Member need not therefore dilate on that point."

SRI B. NARAYANASWAMI NAYUDU :—" Therefore, if my friends would concede that the Act is an inroad on the rights of private property and that it should be applied only in extraordinary circumstances, the criticism that we are voicing forth imaginary grievances is wrong.

" Not only that, Sir. The magistrate has got the power to say what is the area from which the compensation has to be collected. The trouble may occur in Mylapore, but the magistrate may include Nungambakkam and Triplicane in that area. It is not a question of not paying compensation; it is a question of vicarious liability. Some persons are ordered to pay. How is it to be determined and who is to determine it? "

MR. PRESIDENT :—" The amending Bill does not affect this question."

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SRI B. NARAYANASWAMI NAYUDU :—" If it is admitted that it is a serious inroad on the rights of private property, it ought not to be extended but strictly limited to the proclaimed area. The argument that the disturbance may occur suddenly is only an excuse for extending the powers of the executive."

DR. V. K. JOHN :—" Sir, I feel strongly that the real point has not been answered. The discussion here should be on a high level and there should not be any personality or sensitiveness introduced. We are discussing the matter from the public point of view.

" Sir, the leading characteristics of British constitution are conflict, compromise and caution. Here is a conflict of interests, let us have a compromise and let us do it cautiously. The question which has been raised again and again and which has not been answered is this. The purpose of section 15-A is to obtain the co-operation of the inhabitants of the area by telling them, ' This is a disturbed area and if there is any loss of property or injury to any person in that area, you, being an inhabitant of that area will be made liable. Please co-operate with the Government so that there may not be any disturbance.' That is the underlying principle of the law. The intention behind the notification is to give a warning to the people and tell them that if any disturbance occurs the Government would have to collect compensation from the inhabitants of that area and pay it to the persons injured. Now they have knocked the bottom out of the principle by not making the notification. Section 15-A speaks of—first a notification, second a claim by an injured man, third an enquiry and fourth an assessment. Now we take away the first thing, notification. We start by saying that a person is injured and that he may claim compensation. Whether section 15 is applicable or not comes later. The magistrate after enquiry may declare a particular area as a disturbed area, and make an inhabitant liable."

MR. PRESIDENT :—" The notification is still there. Section 15 is still there."

DR. V. K. JOHN :—" It is there only for the punitive police, for the sake of making an assessment to meet the expenses of the punitive police."

MR. PRESIDENT :—" Does not section 15-A apply to the area notified under section 15? This question of compensation will apply to a notified area as well as to a non-notified area."

DR. V. K. JOHN :—" The amendment says: ' We will not notify that the area is a disturbed one. Even if we do not notify it and give you a chance to co-operate, still we shall make you liable.' The difficulty is this. Suppose there is a disturbance. A man applies for compensation. After he applies, the Government goes into the question. The Magistrate makes the enquiry and then he says that section 15-A must apply and the people there must pay compensation. The Government must look at the question not only

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from the point of view of the man who claims compensation, but from the point of view of the public. What is the intention of section 15-A? Not so much to give compensation to the injured man. If that were so, the Government are rich and as they did in the case of the Malabar rebellion, they can pay out of public funds. The intention is to give a note of warning to the public so that they may co-operate."

MR. PRESIDENT :—" May I request the hon. Member to finish soon? "

DR. V. K. JOHN :—" A notification beforehand will warn the people to co-operate with the Government in the interests of Law and Order. That is knocked out of the bottom. The primary and fundamental intention underlying section 15-A is taken away by this amendment."

* THE HON. SRI K. MADHAVA MENON :—" Sir, my hon. Friend asks me what is the intention of section 15-A? I shall refer him to the marginal note to the section which reads: 'Awarding compensation to sufferers from misconduct of inhabitants or persons interested in land.' Mr. Narayanaswami Nayudu said that we are imposing a vicarious liability. It is not done by this amendment, Sir. By whom is the compensation to be paid is not the subject-matter of the amendment. We have all been talking here without knowing what the purport of the amendment is. The words 'notified area' are omitted from section 15-A, but a separate clause has been provided as sub-clause (a) of sub-section (2) which says that the District Magistrate can '(a) declare the limits of the local area the inhabitants of which have, in his opinion, been guilty of such misconduct or caused or contributed to the same.' What has been omitted from the first portion is put in the second portion so that a notification need not be a condition precedent to the application. After the application is made, the Government or the Collector may determine which is the area to be notified."

MR. PRESIDENT :—" There is a notification contemplated though it comes after the incident."

THE HON. SRI K. MADHAVA MENON :—" Otherwise the notification will be a condition precedent to the application."

Clause 2 of the Bill was put and carried. Clause 1 and the preamble were put one by one and passed.

THE HON. SRI K. MADHAVA MENON :—" Sir, I move—
'that the Bill be passed into law.'"

SRI B. NARAYANASWAMI NAYUDU :—" Sir, I would once more draw the attention of the House to the fact that a subsequent notification is not the same as a previous notification. Any area can be elubbed together in a subsequent notification. Suppose a murder takes place in Triplicane, the magistrate may say that the inhabitants of Triplicane, Mylapore and Dindigul also should be

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liable to pay compensation! When a proclamation is there previously, it will be known that the inhabitants of a certain area alone will be liable, but in this case no inhabitant knows whether he is liable or not. It is left entirely to the executive to say that. It is an infringement of the first principle, namely, that you must take away the rights of property and individual liberty only after proper notification. The plunder might occur in Tanjore and they might say that Dr. John and Mr. Narayanaswami Nayudu sitting in Madras have incited these people and they must be made liable. Therefore, the fear is not at all imaginary. The amendment only seeks to clothe the executive with supreme powers over the sacred rights of private property and individual liberty."

The question that the Bill be passed into law was put and carried.

(5) THE MADRAS AIDED INSTITUTIONS (PROHIBITION OF TRANSFERS OF PROPERTY) BILL, 1948 (L. A. BILL NO. 7 OF 1948)

THE HON. SRI K. MADHAVA MENON :—" Sir, I have to move—

'that the Madras Aided Institutions (Prohibition of Transfers of Property) Bill, 1948 (L.A. Bill No. 7 of 1948) as passed by the Legislative Assembly, be taken into consideration at once.'

" Sir, I am sure that this Bill will not raise much of a controversy."

MR. PRESIDENT :—" The Hon. Minister need not be so sure." (Laughter.)

THE HON. SRI K. MADHAVA MENON :—" I have full faith in the reasonableness of people, Sir."

DR. V. K. JOHN :—" It is an unnecessary insinuation, Sir. I seriously object to it. I do not like that every time the Government should insinuate against the Opposition."

THE HON. SRI K. MADHAVA MENON :—" The hon. Member assumes that I allege want of reason on the part of the Opposition. I did not mean it. It may be as well on my part, Sir."

DR. V. K. JOHN :—" Sir, why cannot we have dispassionate and disinterested discussion of matters on a high level without bringing in personalities? "

THE HON. SRI K. MADHAVA MENON :—" If my hon. Friend has a guilty conscience, I cannot help, Sir."

MR. PRESIDENT :—" I think the Hon. Minister need not provoke him further."

DR. V. K. JOHN :—" Why can't the Hon. Minister move his Bills without any remarks against the Opposition? . . . "

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THE HON. SRI K. MADHAVA MENON :—" I am not yielding, Sir. The Statement of Objects and Reasons to the Bill says :

'Where grants are made by Government for the acquisition of any land or the construction of any building for educational purposes, one of the conditions imposed is that the land or building should not be alienated or used for any purpose other than an educational purpose, for a specified period ranging from 20 to 99 years. If this condition is broken, a proportionate part of the grant has to be repaid to the Government. The managers of some educational institutions have recently taken advantage of the considerable increase in the value of immovable property, to sell lands or buildings acquired or constructed with the aid of Government grants, with a view to making a profit out of the transaction. In such cases, even after a proportionate part of the grant has been repaid to the Government, a handsome surplus remains in the hands of the managers. Government consider that this highly objectionable practice should be put an end to at once, and that, as in the English School Grants Act, 1855, any land or building for which an educational institution has received a Government grant should not be transferred by the management without the specific permission of the Government. The same principle should obviously apply where the land or building was originally Government property and has been transferred to the institution by Government. The Government also consider that any other public institution which has received aid from them, for example, a hospital, should be treated in regard to this matter in the same manner as an educational institution.'

MR. PRESIDENT :—" I see Dr. John seems to be very much worried over the remark."

DR. V. K. JOHN :—" I should like those remarks to be withdrawn, Sir. Otherwise . . ."

THE HON. SRI K. MADHAVA MENON :—" If my hon. Friend holds out a threat, Sir, he cannot expect me to withdraw."

MR. PRESIDENT :—" It is not necessary to provoke him any further. Considering the atmosphere in the House, I think the Hon. Minister may withdraw his remark."

THE HON. SRI K. MADHAVA MENON :—" If Dr. John feels it so keenly, I withdraw it, Sir."

45 m. " It was not intended for Dr. John. If I am prepared to give, I am prepared to take also."

MR. PRESIDENT :—" That we all do including myself."

THE HON. SRI K. MADHAVA MENON :—" I am not going to complain or cry if a little strong word is used. As I said, Sir, Government also consider that any public institution which has received aid from Government, for instance, hospitals, should be treated in the same manner as an educational institution. Clause 3 of the Bill says: 'the Government may, in their discretion, by order permit the transfer of any such land or building under two conditions, one, the transfer is made in furtherance of the purpose of the institution, and two, for some other valid reason justifying the transaction. In the first case, only a proportionate part of the grant or of the market value of the property given by Government will have to be refunded, but in the other case, the entire market value or the entire grant will have to be refunded. This is the principle of the Bill. The Bill was referred to a Joint Select Committee and only very minor changes were made by the Joint

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Select Committee and it was approved by the other House. It has now come up here for approval. I move, Sir, that it be taken into consideration at once."

* SRI R. SURYANARAYANA RAO :—" Sir, I do not propose to detain the House for long. We are very thankful to the Government, as we mentioned at the time the Bill was introduced, for bringing forward this Bill enabling the Government to have a hold on the property purchased or brought into existence with the help of the grants made by Government. We are also gratified that the Select Committee has brought in the local authorities also because they are as much liable to abuse the grants made by Government as other institutions are likely to abuse them. Sir, when the Bill was introduced by the Hon. Minister for Education—incidentally I may say the Hon. Minister, Mr. Madhava Menon is suffering from the strain of vicarious responsibility inasmuch as he has to father so many pieces of legislation for which he is not responsible—he told us that this Bill is brought forward, because the Government had an idea of not only giving grants but also giving loans to institutions to enable them to purchase lands either for playgrounds or for the construction of buildings. I wish a provision had also been made to cover such cases . . ."

MR. PRESIDENT :—" What is the matter, Dr. John? I hope you are not going under protest."

DR. V. K. JOHN :—" I want to go away but not as a protest. I have some work to attend to."

SRI R. SURYANARAYANA RAO :—" I wish the Joint Select Committee had included some amendment in this Bill to cover dispensaries, playgrounds, etc., acquired with the help of loans. You may remember, the Hon. Minister for Education told us that the question of giving loans also for the purpose of constructing school buildings, hospitals, etc., was under the serious consideration of Government. I wish, Sir, in some general way, that had been brought in, instead of merely mentioning that only those buildings or lands that are acquired with the grants will come under this Bill. Anyhow it is a good piece of legislation and I hope it will help the institutions which have managed to build buildings and to use them for the purposes for which they are intended, instead of selling them, prompted by the high prices they may fetch and also put some restraint on the local authorities who are also tempted to part with their lands and buildings because of the high prices that may be offered. I hope, Sir, that when the Government decide to give loans also, in addition to grants, for the construction of buildings, or acquisition of grounds, they will amend this Bill in order to cover also such cases, so that even buildings acquired or built with the help of loans received from Government on easy terms, are not sold away because they fetch better prices. With these few words, Sir, I have great pleasure in supporting this measure and I hope this will assist Government in preventing the properties of schools and hospitals being sold away to others."

THE HON. SRI K. MADHAVA MENON :—" One word, Sir. There is of course some force in what Mr. Suryanarayana Rao has

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said. The question of giving protection even to buildings constructed with the help of Government loans will be examined by Government and if necessary, an amending Bill introduced."

The motion that the Bill be taken into consideration at once was put and carried.

Clause 2 was put and carried.

Clause 3 was put and carried.

Clause 4 was put and carried.

Clause 5 was put and carried.

Clause 6 was put and carried.

Clause 7.

* SRI B. BHIMA RAO:—"I want to say a few words, Sir before this clause is put to vote. As it reads, clause 7 is all-embracing. I am, of course, in favour of the principle of the Bill, but my objection is only to the phraseology of clause 7 of the Bill. It is only when the provisions of section 3 or of sections 4 and 5 have been contravened that this clause gives power to the Government to realize the amount due to them without prejudice to any mode of recovery provided in any other law for the time being in force, that is in a manner which is provided for by the Revenue Recovery Act, by proceeding against immovable properties or even by arresting the person who is responsible for this default. In addition to these provisions, the clause provides that the amount should be recovered from the properties of the institution or the manager thereof, as if it were an arrear of land revenue due from such institution or manager. Supposing this amount which has been brought from the vendee without necessary permission, has been utilized for the purposes of the institution, would it be fair to proceed against the properties of the institution? Then, Sir, the words 'or from the manager' are used. For instance, the defaulting manager might have been removed and any other manager might have been appointed in his place. The clause gives power to proceed against the succeeding manager also. I do not think that that was what was meant by those who have been responsible for the initiation of this legislation. If the expression was, 'or from the defaulting manager', I do not think anybody could have any objection, but if the word 'manager' means, the manager who has succeeded the one who has committed a breach of trust, I think this provision should not have been incorporated. I do not like to suggest an amendment at this stage, because it has passed the Assembly stage and has come here for approval. I, therefore, wish to make only a suggestion to the Ministry to make it quite clear, because when we enact a provision like this, we give power to the Collector, and in some cases it is not even the Collector of the district that attends to it, but it is the Tahsildar or the Revenue Inspector. Sir, we know that before the Congress Ministry resigned in 1939, power was given to the revenue authorities to realize any amount due to them as if it were an arrear of land revenue and the advantage was taken by them of such a power. When we, as lawyers, had to file some documents in court, we eventually found

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we were liable for penalty, and some lawyers were proceeded against and not the clients. In fact, in two cases, I got warrants for attachment of my movable property. So, Sir, you cannot depend upon the lower classes of revenue officials to use their discretion properly and rightly. When you give a large measure of power in their hands, I am sure they will certainly abuse those powers. So, Sir, I would request the Ministry to put in a proper phraseology particularly in regard to this clause 7, as early as possible."

THE HON. SRI K. MADHAVA MENON:—"Sir, I shall get these doubts raised by Mr. Bhima Rao, examined later. So far as I am concerned, I do not have that doubt as he has. Section 3, sub-section (2) says, 'the Government may permit if the transfer is made in furtherance of the purpose of the institution or of similar purposes approved by the Government and the assets resulting from the transfer are to be wholly utilized in furtherance of the said purposes'. So that, Sir, if any transfer is made in furtherance of the purposes of the institution, Government are not entitled to recover the money, but if only part of it is used for the purpose of the institution and part by the manager, then the Government can ask for the recovery of the amount from the institution. Of course, there is an appeal provided to the District Judge whether the compensation claimed is correct or not. If Sri Bhima Rao's case is, if the money has been spent in furtherance of the purpose of the institution, I say that is provided for. Secondly, without prejudice to the mode of recovery this Government is at liberty to file a suit in the civil court rather than under the Revenue Recovery Act. In regard to the objection that the amount should not be collected from the manager, I may say, that the manager is not the individual, but whoever is the manager for the time being, is liable under the law. Perhaps a subsequent manager may come in and he will be held liable for the amount. The action will lie against the manager of the institution and not against the particular individual who is the manager. I do not think a difficulty like that will arise. However, I will have the matter examined."

MR. PRESIDENT:—"By 'manager', you mean the manager who has been removed or any other man that comes in his place. According to the strict wording of the section, you have to proceed against the institution or the manager, not against the removed manager. You do not want to proceed against the institution because the institution is not liable."

THE HON. SRI K. MADHAVA MENON:—"There is chance of an interpretation like that and I will have the question examined, Sir."

Clause 7 was put and carried.

Clause 8 was put and carried.

Clause 1 was put and carried.

The Preamble was put and carried.

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THE HON. SRI K. MADHAVA MENON :—" I move, Sir—
' that the Bill be passed into law.' "

p.m. ABDUL LATIF FAROOKHI SAHIB BAHADUR :—" Mr. President, Sir, I had no intention to detain the House for any length of time, but I feel, Sir, in a measure like this we have to support the Government because they are doing a right thing. I would have simply kept quiet but for the fact that there was some unpleasantness here and I want to assure the Government, particularly my hon. friend Mr. Madhava Menon that we are doing everything in a good spirit here. It is my belief and I have always expressed it on the floor of this House, as I have said this morning, that we have a very polite and humorous President in you and you really make the proceedings of the House, on intricate matters, lively. I appreciate the manner in which my hon. friend Mr. Madhava Menon has been dealing with these Bills and he certainly was very chivalrous and sportsmanlike in withdrawing some of the remarks which one need not take in any bad spirit. In transacting our business, we have to bring to play a certain measure of humour so that there may be liveliness and I assure the Government that we do not, on our part, take all these things very seriously. As a matter of fact, I have been noticing that the Ministers have always been polite to us and we are thankful to them for their politeness and if, on account of some irksomeness or some other reason, one or two of us feel at a particular moment that we have been aggrieved, then, I request the Government to think that we are also human beings and I feel, Sir, that my hon. friend Mr. Madhava Menon is somewhat in an agitated mood and I express to him that we really very much appreciate the manner in which he takes our remarks and criticisms but he takes them in a very light-hearted manner. He claims to possess a thick skin and if he has got a thick skin, he must also grant that we also are equally thick-skinned. We do not take objection to this and we appreciate the manner in which he has taken our criticisms and that must be the spirit in which we have to work. I stood up on this occasion in order that there may not be any misunderstanding and that there may not be any unpleasantness particularly in this House where there has not been any unpleasantness so far. Particularly, I cannot forget the fact, Sir, that you have always tried to pacify both sides; you have been very impartial, just and fair to both sides; and in fact I venture to say, you have been more mindful of the interests of the Opposition than of the Government though you belong to that Party. Of course, Sir, you are above party and nobody doubts that. But, Sir, we have to confess that you belong to the Congress party and in spite of it, you have been more mindful of the interests of the Opposition than of the other side. So, with these remarks I support the motion."

THE HON. SRI K. MADHAVA MENON :—" Mr. President, Sir, let me assure you, I had never intended, said or caused any personal feeling to be raised in any sort of debate. It has never

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been my intention and I have never done it and if anybody feels for it, I am sorry. I have only repeated the same words which have been hurled at me and perhaps I might have hurled it back sometimes with greater force or less force. But that is only in the natural process of the debate and I never meant it as any personal attack against anybody. It is far from me and I have never done it and I shall never do it."

MR. PRESIDENT :—" I very much appreciate the sentiments expressed by hon. Member Mr. Farookhi and I value them especially as it comes from the Deputy Leader of the Opposition. So far as I am concerned, it has always been my endeavour to see that a cool atmosphere prevails in the House and that is why even resort to external aids like the thattis have been put up around the House (laughter). One aid to keeping our heads cool is that we must understand people aright. Mr. Narayanaswami Nayudu is always very incisive in his attacks but he never keeps anything in his mind; he has a method of talking all his own and probably that has ruffled Mr. Madhava Menon a bit but I do not think he was so much provoked by Dr. John as by Mr. Narayanaswami Nayudu; no doubt the brunt of the attack was on Dr. John though the provocation came from Mr. Narayanaswami Nayudu. I appreciate the manner in which the Hon. Minister received and returned the criticisms and I wish that Dr. John would do the same. I have got the assurance of the Deputy Leader of the Opposition that Dr. John did not leave the House in a huff and had some other important business outside. I was anxious that we should mollify him and not leave anything behind and that is why in order to pacify him I suggested to the Minister to withdraw his remarks and I appreciate, he did it. Incidentally, encomiums fell upon me from the Deputy Leader of the Opposition but I should think that the purpose of any person occupying the Chair is to see that things go on properly and in a right spirit and people do not fall out with each other. I hope that this will serve to keep us in the right path."

The motion was put and carried and the Bill was passed into law.

The House adjourned till 2-30 p.m. the next day.

V.—PAPERS LAID ON THE TABLE OF THE HOUSE.

- (1) *The Police (Madras Amendment) Bill, 1947 as passed by the Legislative Assembly and received therefrom the Council.*
- (2) *The Madras Aided Institutions (Prohibition of Transfers of Property) Bill, 1948 as passed by the Legislative Assembly and received therefrom the Council.*

[23rd April 1948]

APPENDIX I.

(Vide item III (2) on page 227 supra.)

A Bill to re-enact certain enactments.

(As passed by the Assembly.)

WHEREAS the Governor of Madras, by a Proclamation made ^{26 Geo. 5,} under section 93 of the Government of India Act, 1935, on the ^{Ch. 2.} 30th day of October 1939, assumed to himself all powers vested by or under that Act in the Provincial Legislature and in either Chamber of the Provincial Legislature, subject to the provisions contained in the Proclamation;

AND WHEREAS in pursuance of those powers many laws have been enacted;

AND WHEREAS the said Proclamation was revoked by the Governor on the 30th day of April 1946;

AND WHEREAS sub-section (4) of the said section 93 had provided that the laws so enacted should, subject to the terms thereof, continue to have effect until two years elapsed from the date on which the Proclamation ceased to have effect, unless sooner repealed or re-enacted by Act of the appropriate Legislature;

AND WHEREAS notwithstanding the omission of section 93 ^{26 Geo. 5,} from the Government of India Act, 1935, by the India (Provi- ^{Ch. 2.} sional Constitution) Order, 1947, the laws aforesaid continue, by virtue of paragraph 6 of the said Order, to have effect as described in the foregoing paragraph;

AND WHEREAS it is expedient to re-enact with suitable modifications some of the laws aforesaid permanently and some of the other laws for a period of one year;

It is hereby enacted as follows:—

Short title and commencement. 1. (1) This Act may be called the Madras Re-enacting (No. II) Act, 1948.

(2) It shall come into force on the 29th day of April 1948:

Provided that the re-enactment of Madras Act XIX of 1942 shall be deemed to have come into force on the 31st day of March 1948.

Permanent re-enactment of certain Acts. 2. The Acts specified in the First Schedule are hereby re-enacted permanently, with the modification specified in section 5.

[23rd April 1948]

3. The Acts specified in the Second Schedule are hereby re-enacted permanently, with the modification specified in section 5 and the further modifications specified in the fourth column of that Schedule. Permanent re-enactment of certain Acts with modifications.

4. (1) The Acts specified in the Third Schedule, with the modification specified in section 5, shall remain in force up to and inclusive of the 29th day of April 1949. Temporary re-enactment of certain Acts.

(2) Upon the expiry of the Acts specified in sub-section (1)—

(a) section 8 of the Madras General Clauses Act, 1891, shall apply as if the Acts so specified had then been repealed by a Madras Act;

(b) save as provided in clause (a), the Acts, if any, amended by the Acts so specified shall have operation as if the latter Acts had never been enacted.

5. In the preamble to each of the Acts specified in the Schedules, for the paragraph containing the enacting formula and the paragraph preceding that paragraph, the following words shall be substituted, namely:— Modification of preambles to certain Acts.

“It is hereby enacted as follows:—”

6. The re-enactment of any Act by section 2, 3 or 4 (1) of this Act shall not be deemed to affect the operation of any amendment made in the Act so re-enacted or in any enactment amended by Act, on or after the 30th day of April 1948 and before the commencement of this Act. Re-enactments not to affect operation of certain amending Acts passed before this Act.

THE FIRST SCHEDULE.

Acts permanently re-enacted.

(See section 2.)

Year.	Number.	Short title.
(1)	(2)	(3)
1940	I	The Madras Local Boards (Amendment) Act, 1940.
1940	VI	The Madras Irrigation Cess (Amendment) Act, 1940, as amended by Madras Act III of 1945.
1940	XVII	The Andhra University (Amendment) Act, 1940.
1940	XVIII	The Madras Village Courts (Amendment) Act, 1940.
1941	VI	The Factories (Madras Amendment) Act, 1941.
1941	X	The Madras District Municipalities (Amendment) Act, 1941.

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Year.	Number.	Short title.
(1)	(2)	(3)
1941	XII	The Madras District Municipalities and Local Boards (Amendment) Act, 1941.
1941	XXII	The Madras City Police (Second Amendment) Act, 1941.
1942	III	The Madras University (Amendment) Act, 1942.
1942	VII	The Madras District Municipalities (Second Amendment) Act, 1942.
1942	XIII	The Madras Irrigation (Voluntary Cess) Act, 1942.
1942	XXXIII	The Madras University (Fifth Amendment) Act, 1942.
1943	XVI	The Madras Stamp (Increase of Duties) Act, 1943.
1943	XXVII	The Madras University (Amendment) Act, 1943.
1944	IX	The Madras Regulation of the Sale of Cloth (Repeal) Act, 1944.
1944	XI	The Andhra University (Amendment) Act, 1944.
1944	XVI	The Andhra University (Third Amendment) Act, 1944.
1944	XIX	The Madras District Municipalities (Second Amendment) Act, 1944.
1945	II	The Madras Estates Land (Amendment) Act, 1945.
1945	III	The Madras Irrigation Cess (Amendment) Act, 1945.
1945	XIV	The Madras Estates Land (Second Amendment) Act, 1945.
1946	IV	The Madras Gaming (Amendment) Act, 1946.

THE SECOND SCHEDULE.

Acts permanently re-enacted with specified modifications.

(See section 3.)

Year.	Number.	Short title.	Modifications.
(1)	(2)	(3)	(4)
1940	XI	The Mettur Township Act, 1940.	In section 3, for sub-section (1), the following sub-section shall be substituted, namely :— “(1) The Township Committee shall consist of nine members who shall be appointed by the Provincial Government

23rd April 1948]

Year.	Number.	Short title.	Modifications.
(1)	(2)	(3)	(4)
1940— cont.	XI— cont.	The Mettur Township Act, 1940— cont.	or by an authority or officer empowered by them in this behalf. Of the nine members not less than four shall be non-officials of whom one shall be a representative of industrial interests in the township and two of labour interests therein.”
1940	XV	The Madras Livestock Improvement Act, 1940.	1. In section 2, clause (c), for the words “Director of Veterinary Services”, the words “Director of Animal Husbandry” shall be substituted. 2. In section 10, clause (a), for the words “officer of the Veterinary Department not below the rank of Veterinary Assistant Surgeon”, the words “officer of the Animal Husbandry Department not below the rank of Assistant Surgeon” shall be substituted. 3. In section 14, for the word “Veterinary”, the words “Animal Husbandry” shall be substituted. 4. Section 21 shall be omitted.
1941	I	The Madras Hackney Carriage (Amendment) Act, 1941.	For the further proviso added by section 2, the following proviso shall be substituted, namely :— “Provided further that the Commissioner shall have power— (i) to limit the number of vehicles of any description which may be registered annually, in which case no vehicle of that description shall be registered in any year in excess of the number so limited ; (ii) to refuse to register vehicles of a particular description, in which case no vehicle of that description shall be registered.”

[23rd April 1948]

Year.	Number.	Short title.	Modifications.
(1)	(2)	(3)	(4)
1941	II	The Madras State Aid to Industries (Amendment) Act, 1941.	For the words "Board of Revenue" wherever they occur, the words "Director of Industries", and for the words "granted by the Board" the words "granted by the Director", shall be substituted.
1942	XIX	The Andhra University (Temporary Amendment) Act, 1942.	1. In the long title, for the word "temporarily", the word "further" shall be substituted. 2. For the first four paragraphs of the preamble, the following paragraph shall be substituted, namely:— "WHEREAS it is expedient further to amend the Andhra University Act, 1925, for the purpose hereinafter appearing;". 3. In section 1, sub-section (1), for the words "Temporary Amendment", the words "First Amendment" shall be substituted. 4. In the same section, in sub-section (2), the words "and shall be in force until the termination of the present hostilities and for two years thereafter" shall be omitted. 5. For section 2, the following section shall be substituted, namely:— "2. In the Andhra University Act, 1925, sub-section (3) of section 6 shall be omitted."
1942	XXXII	The Andhra University (Second Amendment) Act, 1942.	Sections 26 and 27 and the heading thereof shall be omitted, section 25 shall be renumbered as section 26, and for section 24, the following sections shall be substituted, namely:— "24. For Chapter X of the said Act, the following Chapter shall be substituted, namely:— 'Chapter X—Miscellaneous. 44. If any difficulty arises as to the constitution or re-constitution of the Senate,

Repeal of
Section 6 (3),
Madras Act
II of 1926.

Substitution
of new
Chapter for
Chapter X,
Madras Act
II of 1926.

Power to
remove
difficulties.

[23rd April 1948]

Year.	Number.	Short title.	Modifications.
(1)	(2)	(3)	(4)
1942— cont.	XXXII— cont.	The Andhra University (Second Amendment) Act, 1942—cont.	the Syndicate, the Finance Committee or the Academic Council, or otherwise in giving effect to the provisions of this Act, the Provincial Government, as occasion may require, may, by order, do anything which appears to them necessary for the purpose of removing the difficulty.
1943	XVIII	The Madras Irrigation Works (Repairs, Improvement and Construction) Act, 1943, as amended by Madras Act IV of 1945.	1. In the preamble, the words "for the purpose of maintaining and increasing the production of food in the present emergency in the Province of Madras" shall be omitted. 2. In section 2, the words "in order to maintain or increase the production of food in the Province" shall be omitted.
1943	XXI	The Madras Proprietary Estates' Village Service and Hereditary Village-offices (Amendment) Act, 1943.	1. Sub-section (2) of section 2 shall be omitted and sub-section (1) of that section shall be renumbered as section 2. 2. In section 2 as so renumbered, in the opening paragraph, for the words, brackets and figure "renders war service as defined in sub-section (2)", the words "has rendered war service", and for the words "has attained or attains majority", the words "attained majority" shall be substituted. 3. In the same section, in the Explanation added by paragraph (b), for the words, figures and brackets "as in sub-section (2) of section 2 of the Madras Proprietary Estates' Village Service and Hereditary Village-offices (Amendment) Act, 1943", the words, figures and brackets

Repeal of the
Schedule,
Madras Act
II of 1926.

[23rd April 1948]

Year. (1)	Number. (2)	Short title. (3)	Modifications. (4)
1943— cont.	XXI— cont.	The Madras Proprietary Estates' Village Service and Hereditary Village-offices (Amendment) Act, 1943—cont.	"as in the Madras Civil Services (War Service Personnel) Recruitment Rules, 1941, as in force for the time being" shall be substituted.
1943	XXVI	The Andhra University (Second Amendment) Act, 1943.	In section 1, for sub-section (2), the following sub-section shall be substituted, namely:— "(2) This section shall come into force at once and section 2 on the 15th February 1944."
1944	I	The Madras Estates Land (Temporary Amendment) Act, 1944.	1. In the preamble, the words "in the present emergency" shall be omitted. 2. In section 2 in the opening paragraph, the words "at any time during the continuance of the present war or within a period of one year from the termination thereof," shall be omitted.
1944	XV	The Andhra University (Second Amendment) Act, 1944.	1. In section 3 (which alters the constitution of the Syndicate of the University), for the words "five persons nominated by the Chancellor of whom two shall be persons recommended by the Maharaja Saheb of Jeypore", the words "five persons nominated by the Chancellor of whom one shall be a person recommended by the Maharaja Saheb of Jeypore", and for the words "two persons shall be nominated on the recommendation of the Maharaja Saheb" occurring in the proviso, the words "a person shall be so nominated on the recommendation of the Maharaja Saheb" shall be substituted. 2. In section 4 (which alters the constitution of the Finance Committee of the

[23rd April 1948]

Year. (1)	Number. (2)	Short title. (3)	Modifications. (4)
1944— cont.	XV— cont.	The Andhra University (Second Amendment) Act, 1944—cont.	University), for the words "a member nominated to the Syndicate on the recommendation of the Maharaja Saheb of Jeypore", the words "the member nominated to the Syndicate on the recommendation of the Maharaja Saheb of Jeypore" shall be substituted. 3. After section 4, the following section shall be added, namely:— "5. Notwithstanding any- Term of thing contained in the said office of Act, the term of office of the member nominated to the members of the Syndicate to the Syndicate and of the member of the Finance Committee who and Finance Committee were nominated to those on the bodies by the Chancellor on the recommendation of the Maharaja Saheb of Jeypore and his successors and who may be holding office on the date on which the Madras Re-enacting (No. II) Act, 1948, comes into force shall expire on that date; and in their places, the Chancellor shall nominate one person to be a member of the Syndicate of the University on the recommendation of the Maharaja Saheb of Jeypore or his successors, in accordance with the provisions of section 18 of the said Act as amended by this Act, such person being also nominated to be a member of the Finance Committee of the University, in accordance with the provisions of section 19-A of the said Act as so amended. The person so nominated shall, subject to the provisions of the said Act, hold office as a member of the Syndicate and of the Finance Committee until the next reconstitution of those bodies."

[23rd April 1946]

Year.	Number.	Short title.	Modifications.
(1)	(2)	(3)	(4)
1945	XIX	The Madras Registration of Births and Deaths (Amendment) Act, 1945.	Sections 5 to 11 shall be renumbered as sections 6 to 12 respectively, and the following shall be inserted, as section 5, namely :— “ 5. After section 5 of the said Act, the following section shall be inserted, namely :— ‘ 5-A. (1) If any person in the service of the Provincial Government is appointed to be registrar for any plantation or ward thereof, the Collector shall determine every year the cost of such appointment to the Government during the previous year; such cost shall include the salary, allowances and travelling allowances of the registrar, contributions, if any, to his provident fund, contributions necessary to meet his leave allowances and pension; and the contingent and other expenditure incurred by him in performing his functions under this Act and the rules made thereunder in respect of the plantation or ward. (2) The Collector may, by order, direct that the whole of the cost as determined under sub-section (1) for the plantation or for all the wards therein, as the case may be, or such part of the cost as the Collector may think fit, shall be paid by the owner

Insertion of new section 5-A in Madras Act II of 1899. Owners of plantations to bear cost of appointment of registrars.

[23rd April 1946]

Year.	Number.	Short title.	Modifications.
(1)	(2)	(3)	(4)
1945— cont.	XIX— cont.	The Madras Registration of Births and Deaths (Amendment) Act, 1945—cont.	of the plantation before a date which shall be specified in the order. (3) Any sum ordered to be so paid shall be a charge on the plantation and may be recovered from the owner thereof for the time being, as if it were an arrear of land revenue.”

THE THIRD SCHEDULE.

Acts temporarily re-enacted for a period of one year.

[See section 4 (1).]

Year.	Number.	Short title.
(1)	(2)	(3)
1941	XVIII	The Madras Proprietary Estates' Village Service and Hereditary Village-offices (Amendment) Act, 1941.
1941	XIX	The Madras Public Health (Amendment) Act, 1941.
1942	I	The Madras District Municipalities (Amendment) Act, 1942.
1942	XXVIII	The Madras Hereditary Village-offices (Amendment) Act, 1942.
1944	V	The Madras Hindu Religious Endowments (Amendment) Act, 1944, as amended by Madras Act X of 1946.
1944	XIII	The Tirumalai-Tirupati Devasthanams (Amendment) Act, 1944.
1946	X	The Madras Hindu Religious Endowments (Amendment) Act, 1946.

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APPENDIX II.

[Vide item III (3) on page 228 supra.]

A Bill further to re-enact certain enactments.

(As passed by the Assembly.)

WHEREAS the Governor of Madras, by a Proclamation made under section 93 of the Government of India Act, 1935, on the 30th day of October 1939, assumed to himself all powers vested by or under that Act in the Provincial Legislature and in either Chamber of the Provincial Legislature, subject to the provisions contained in the Proclamation;

AND WHEREAS in pursuance of those powers, many laws have been enacted;

AND WHEREAS the said Proclamation was revoked by the Governor on the 30th day of April 1946;

AND WHEREAS sub-section (4) of the said section 93 had provided that the laws so enacted should, subject to the terms thereof, continue to have effect until two years elapsed from the date on which the Proclamation ceased to have effect, unless sooner repealed or re-enacted by Act of the appropriate Legislature;

AND WHEREAS notwithstanding the omission of section 93 from the Government of India Act, 1935, by the India (Provincial Constitution) Order, 1947, the laws aforesaid continue, by virtue of paragraph 6 of the said Order, to have effect as described in the foregoing paragraph;

AND WHEREAS it is expedient to re-enact with suitable modifications four of the laws aforesaid permanently;

It is hereby enacted as follows:—

Short title
and com-
mencement.

1. (1) This Act may be called the Madras Re-enacting (No. III) Act, 1948.

(2) It shall come into force on the 29th day of April 1948.

Permanent
re-enact-
ment of
Madras Act
XIX of
1943.

2. The Madras Local Boards (Second Amendment) Act, 1943, is hereby re-enacted permanently, with the modification specified in section 4.

Permanent
re-enact-
ment of
other Acts
with modifi-
cations.

3. The Acts specified in the Schedule are hereby re-enacted permanently, with the modification specified in section 4 and the further modifications specified in the fourth column of the Schedule.

Modification
of preamble
to certain
Acts.

4. In the preamble to each of the Acts referred to in sections 2 and 3, for the paragraph containing the enacting formula and the paragraph preceding that paragraph, the following words shall be substituted, namely:—

"It is hereby enacted as follows:—"

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5. The re-enactment of any Act by this Act shall not be deemed to affect the operation of any amendment made in the Act so re-enacted or in any enactment amended by that Act, on or after the 30th day of April 1946 and before the commencement of this Act.

Re-enact-
ments not to
affect opera-
tion of cer-
tain amend-
ing Acts
passed before
this Act.

THE SCHEDULE.

Acts permanently re-enacted with specified modifications.

(See section 3.)

Year.	Number.	Short title.	Modifications.
(1)	(2)	(3)	(4)
1942	XXIV	The Madras City Municipal, District Municipalities and Local Boards (Second Amendment) Act, 1942.	1. Sections 3 to 8 shall be omitted. 2. To section 11, the following Explanation shall be added, namely:— "Explanation. — Nothing contained in clause (a) shall be deemed to affect in any way the operation of section 3 of the Madras District Municipalities and Local Boards (Second Amendment) Act, 1946."
1942	XXXVIII	The Madras District Municipalities (Third Amendment) Act, 1942.	1. Section 2 shall be omitted. 2. In section 3, for the words "twenty-five rupees", the words "fifty rupees" shall be substituted. 3. In section 17, clauses (ii), (iii) and (v)— (i) the word "simultaneously" shall be omitted; (ii) for the words "at any time", the words "on any day" shall be substituted.
1946	VII	The Madras District Municipalities and Local Boards (Amendment) Act, 1946.	1. In section 2, for clause (a) of new section 61-A of the Madras District Municipalities Act, 1920, the following clause shall be substituted, namely:— "(a) for the lighting, watering, scavenging and drainage of such street;" 2. In section 3, for clause (a) of new section 60-A of the Madras Local Boards Act, 1920, the following clause shall be substituted, namely:— "(a) for the lighting, watering, scavenging and drainage of such road;"

Madras Act
XVI of
1946.

Madras
V of
1920.

Madras Act
XIV of
1920.

[23rd April 1948]

Year.	Number.	Short title.	Modifications.
(1)	(2)	(3)	(4)
1946— cont.	VII— cont.	The Madras District Municipalities and Local Boards (Amendment) Act, 1946—cont.	3. For sections 4, 5 and 6, the following section shall be substituted, namely:— “4. After section 73-B of the said Act, the following sections shall be inserted, namely:— ‘73-C. Notwithstanding anything contained in this Act, the Provincial Government may appoint the District Engineer of the Highways Department to perform all the functions of the District Engineer or Engineers referred to in section 68, sub-section (1). 73-D. Every district board shall pay to the Provincial Government in each year such contribution as they may, by general or special order, determine, towards— (i) the salaries, allowances including leave allowances, pensions and provident funds of District Engineers, Assistant Engineers, Supervisors and other subordinate officers and servants of the Highways Department working in the district; and (ii) the expenses incurred by the officers and servants referred to in clause (i), on account of contingencies and the like.’” 4. Sections 7 and 8 shall be renumbered as sections 5 and 6 respectively.

Insertion of new sections 73-C and 73-D in Madras Act XIV of 1920.
Appointment of District Engineer of Highways Department.

District Boards to contribute towards the cost incurred by the Provincial Government on account of salary, allowances, etc., of officers and servants of the Highways Department.

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APPENDIX III.

[Vide item IV (1) on page 229 supra.]

Draft Amendments.

Whereas certain rules amending Schedules III and IV to the Madras District Municipalities Act, 1920 (Madras Act V of 1920), were made by His Excellency the Governor of Madras in exercise of the powers conferred by section 305 (1) of that Act, for the reasons mentioned in the Annexure when the Proclamation under Section 93 of the Government of India Act, 1935, was in force in this Province;

And whereas the said rules will cease to be in force on the 30th April 1948;

And whereas it is expedient to re-enact these rules permanently subject to a modification in one respect;

Now, therefore, in pursuance of section 305-A of the Madras District Municipalities Act aforesaid, this Council is hereby pleased to approve the following draft rule proposed to be made by the Government of Madras:—

DRAFT RULE.

The rules published with the notifications of the Local Administration Department reproduced below are hereby re-enacted permanently, subject to the modification that in the rule published with Local Administration Department Notification No. 243, dated the 10th March 1942, in item (ii), for the words and figures “Controller under the Madras House Rent Control Order, 1941,” the words, brackets and figures “Controller under the Madras Buildings (Lease and Rent Control) Act, 1946” shall be substituted:—

I. Local Administration Department Notification No. 735, dated the 25th June 1940, published at page 432 of Part I-A of the Fort St. George Gazette, dated the 2nd July 1940.

In exercise of the powers conferred by sub-section (1) of section 305 of the Madras District Municipalities Act, 1920 (Madras Act V of 1920), His Excellency the Governor of Madras is hereby pleased to make the following rule altering Schedule IV to the said Act:—

RULE.

In the said schedule—

(i) in rule 29—

(a) in sub-rule (3), for the words “shall not be demanded,” the words and figures “shall not be recovered in the manner laid down in rule 30” shall be substituted; and

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(b) after sub-rule (3), the following sub-rule shall be added, namely :—

“(4) Nothing contained in this rule or in rule 30 shall preclude the council from suing in a civil court for any tax due to it under this Act”; and

(ii) sub-rule (3) of rule 30 shall be omitted.

II. Local Administration Department Notification No. 985, dated the 28th August 1940, published at page 634 of Part I-A of the Fort St. George Gazette, dated the 3rd September 1940.

In exercise of the powers conferred by sub-section (1) of section 305 of the Madras District Municipalities Act, 1920 (Madras Act V of 1920), His Excellency the Governor of Madras is pleased to make the following rule altering Schedule IV to the said Act :—

RULE.

In sub-rule (1) of rule 43 of the said schedule, clause (o) shall be relettered as clause (p) and the following shall be inserted as clause (o), namely :—

“(o) payment of such contribution towards the cost of training commissioners of municipalities as may be fixed by the Provincial Government.

Explanation.—The cost of training commissioners may include the whole, or such part as the Government deem equitable, of the pay, pensionary or provident fund contributions and leave and other allowances, if any, of the officers and servants of the Crown or of any other authority employed, and other incidental expenses incurred in connexion with such training.”

III. Local Administration Department Notification No. 539, dated the 10th May 1941, published at page 346 of Part I-A of the Fort St. George Gazette, dated the 20th May 1941.

In exercise of the powers conferred by sub-section (1) of section 305 of the Madras District Municipalities Act, 1920 (Madras Act V of 1920), His Excellency the Governor of Madras is hereby pleased to make the following rule altering Schedule IV to the said Act :—

RULE.

In sub-rule (a) of rule 26 of the said schedule, for the words “ unless it be presented at the municipal office,” the words “ unless it reaches the municipal office ” shall be substituted.

IV. Local Administration Department Notification No. 542, dated the 12th May 1941, published at page 348 of Part I-A of the Fort St. George Gazette, dated the 20th May 1941.

In exercise of the powers conferred by sub-section (1) of section 305 of the Madras District Municipalities Act, 1920 (Madras

[23rd April 1948]

Act V of 1920), His Excellency the Governor of Madras is hereby pleased to make the following rule altering Schedule IV to the said Act :—

RULE.

In the said schedule under the heading “ Obligatory expenditure,” the following rule shall be inserted before rule 43, namely :—

“ 42-A. The municipal council

(1) shall make provision for the construction, maintenance, diversion and improvement of streets, bridges, causeways, culverts and the like to such extent as the Provincial Government consider necessary and practicable; and

(2) shall not divert such provision to other purposes without the express sanction of the Provincial Government.”

V. Local Administration Department Notification No. 1165, dated the 11th November 1941, published at page 866 of Part I-A of the Fort St. George Gazette, dated the 25th November 1941.

In exercise of the powers conferred by sub-section (1) of section 305 of the Madras District Municipalities Act, 1920 (Madras Act V of 1920), His Excellency the Governor of Madras is hereby pleased to make the following rule altering Schedule IV to the said Act :—

RULE.

In sub-rule (1) of rule 43 of the said schedule, clause (p) shall be relettered as clause (q) and the following shall be inserted as clause (p), namely :—

“(p) payment of travelling allowance of a person appointed as the commissioner of the municipality in respect of his journey to join the appointment.”

VI. Local Administration Department Notification No. 154, dated the 18th February 1942, published at page 158 of Part I-A of the Fort St. George Gazette, dated the 3rd March 1942.

In exercise of the powers conferred by sub-section (1) of section 305 of the Madras District Municipalities Act, 1920 (Madras Act V of 1920), His Excellency the Governor of Madras is hereby pleased to make, with effect on and from the 1st April 1942, the following rule altering Schedule IV to the said Act :—

RULE.

For sub-rule (1) of rule 16 of the said schedule, the following sub-rule shall be substituted, namely :—

“(1) The classes into which companies and persons shall, for the purposes of assessment to the profession tax, be divided

[23rd April 1948]

and the maximum half-yearly tax leviable on each class shall be as follows :—

Class.	Half-yearly income.	Maximum half-yearly tax.
		RS. A.
I	More than Rs. 9,600	25 0
II	Do. 7,800 but not more than Rs. 9,600.	18 0
III	Do. 6,000 do. 7,800.	13 0
IV	Do. 4,200 do. 6,000.	9 0
V	Do. 3,000 do. 4,200.	6 0
VI	Do. 1,800 do. 3,000.	3 0
VII	Do. 1,200 do. 1,800.	2 0
VIII	Do. 600 do. 1,200.	1 0
IX	Do. 300 do. 600.	0 8 "

VII. *Local Administration Department Notification No. 243, dated the 10th March 1942, published at page 231 of Part I-A of the Fort St. George Gazette, dated the 31st March 1942.*

In exercise of the powers conferred by sub-section (1) of section 305 of the Madras District Municipalities Act, 1920 (Madras Act V of 1920), His Excellency the Governor of Madras is hereby pleased to make the following rule altering Schedule IV to the said Act :—

RULE.

In sub-rule (2) of rule 8 of the said schedule—

(i) at the end of the first sentence, the following words shall be added, namely :—

“ or subject to any rules which the Provincial Government may make in this behalf, by substituting therein for the name of the owner of any property the name of any other person who has succeeded by transfer or otherwise to the ownership of the property; ”

(ii) at the end of the proviso, the following words shall be added, namely :—

“ except where the fair rent of a building together with land appurtenant to it has been determined by the Controller under the Madras House Rent Control Order, 1941,” and

(iii) after the same proviso, the following further proviso shall be added, namely :—

“ Provided further that the decision of the executive authority in any disputed case of transfer of ownership of a property shall not give the transferee a legal title to the property.”

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VIII. *Local Administration Department Notification No. 630, dated the 18th August 1942, published at page 680 of Part I-A of the Fort St. George Gazette, dated the 3th September 1942.*

In exercise of the powers conferred by sub-section (1) of section 305 of the Madras District Municipalities Act, 1920 (Madras Act V of 1920), His Excellency the Governor of Madras is hereby pleased to make the following rule altering Schedule IV to the said Act :—

RULE.

In sub-clause (ii) of clause (a) of rule 26 of the said schedule, for the expression “ under rule 15 ”, the expression “ under rule 13 or 15 ” shall be substituted.

IX. *Local Administration Department Notification No. 775, dated the 16th October 1942, published at page 800 of Part I-A of the Fort St. George Gazette, dated the 3rd November 1942.*

In exercise of the powers conferred by sub-section (1) of section 305 of the Madras District Municipalities Act, 1920 (Madras Act V of 1920), His Excellency the Governor of Madras is hereby pleased to make the following rule altering Schedule III to the said Act :—

RULE.

After rule 11 of the said schedule, the following rule shall be inserted, namely :—

“ 11-A. The committees constituted by the council under section 23 as well as the committees constituted under the proviso to section 68 (1) and under section 73 shall meet in the office provided by the municipal council under rule 1.”

X. *Local Administration Department Notification No. 308, dated the 12th April 1943, published at page 164 of Part I-A of the Fort St. George Gazette, dated the 27th April 1943.*

In exercise of the powers conferred by sub-section (1) of section 305 of the Madras District Municipalities Act, 1920 (Madras Act V of 1920), His Excellency the Governor of Madras is hereby pleased to make the following rule altering Schedule III to the said Act :—

RULE.

For rule 10 of the said schedule, the following rule shall be substituted, namely :—

“ 10. Within three days of the date of the meeting, a copy of the minutes of the proceedings at such meeting in English and in the language of the district, shall be forwarded by the Chairman to the Collector of the District, and another copy to the Deputy Inspector of the Municipal Councils and Local Boards of the

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range, in which the municipality is situated. An authenticated copy of the said minutes shall also be affixed to the notice board of the municipal office and relevant extracts of the said minutes shall be sent to the Heads of Departments of the Provincial Government and to the Superintending Officers appointed under sub-section (1) of section 38 for information and necessary action. The chairman shall also immediately submit to the said Collector any minute of dissent that may be forwarded to him within forty-eight hours of the meeting by any Councillor."

XI. *Local Administration Department Notification No. 427, dated the 22nd June 1943, published at page 242 of Part I-A of the Fort St. George Gazette, dated the 6th July 1943.*

In exercise of the powers conferred by sub-section (1) of section 305 of the Madras District Municipalities Act, 1920 (Madras Act V of 1920), His Excellency the Governor of Madras is hereby pleased to make the following rule altering Schedule IV to the said Act:—

RULE.

To sub-rule (1) of rule 60 of the said schedule, the following explanation shall be added, namely:—

"*Explanation.*—It shall not be open to any person whose negligence or misconduct has caused or contributed to any such deficiency or loss, to contend that notwithstanding his negligence or misconduct the deficiency or loss would not have occurred but for the negligence or misconduct of some other person."

APPENDIX IV

[Vide item IV (2) on page 233 supra.]

Draft Amendments.

Whereas certain rules amending Schedules II, IV, V and VII to the Madras Local Boards Act, 1920 (Madras Act XIV of 1920), were made by His Excellency the Governor of Madras in exercise of the powers conferred by section 201 (1) of that Act for the reasons mentioned in the Appendix when the Proclamation under section 93 of the Government of India Act, 1935, was in force in this Province;

And whereas the said rules will cease to be in force on the 30th April 1948;

And whereas it is expedient to re-enact these rules permanently subject to modifications in two respects;

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Now, therefore, in pursuance of section 201-A of the Madras Local Boards Act aforesaid, this Council is hereby pleased to approve the following draft rule proposed to be made by the Government of Madras:—

DRAFT RULE.

The rules published with the notifications of the Local Administration Department reproduced below are hereby re-enacted permanently, subject to the modifications that—

(1) in the rule published with Local Administration Department Notification No. 216, dated the 11th February 1941, for the words "India or the Empire," the words "or the Dominion of India" shall be substituted; and

(2) in the rules published with Local Administration Department Notification No. 400, dated the 21st September 1945, in item (ii) of rule 1, for the words and figures "Controller under the Madras House Rent Control Order, 1941," the words, brackets and figures "Controller under the Madras Buildings (Lease and Rent Control) Act, 1946" shall be substituted.

I. *Local Administration Department Notification No. 736, dated the 25th June 1940, published at page 432 of Part I-A of the Fort St. George Gazette, dated the 2nd July 1940.*

In exercise of the powers conferred by sub-section (1) of section 201 of the Madras Local Boards Act, 1920 (Madras Act XIV of 1920), His Excellency the Governor of Madras is hereby pleased to make the following rule altering Schedule IV to the said Act:—

RULE.

In the said schedule—

(i) in rule 32—

(a) in sub-rule (3), for the words "shall be payable by any person," the words and figures "shall be recovered from any person in the manner laid down in rule 33" shall be substituted; and

(b) after sub-rule (3), the following sub-rule shall be added, namely:—

"(4) Nothing contained in this rule or in rule 33 shall preclude the local board from suing in a civil court for any tax due to it under this Act"; and

(ii) sub-rule (3) of rule 33 shall be omitted.

II. *Local Administration Department Notification No. 216, dated the 11th February 1941, published at page 142 of Part I-A of the Fort St. George Gazette, dated the 25th February 1941.*

In exercise of the powers conferred by sub-section (1) of section 201 of the Madras Local Boards Act, 1920 (Madras Act XIV of

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1920), His Excellency the Governor of Madras is hereby pleased to make the following rule altering Schedule V to the said Act:—

RULE.

In clause (2) of rule 4 of the said schedule, the following words shall be inserted between the words "charitable fund" and "or", namely:—

"or to a fund for the defence of the local area within its jurisdiction, India or the Empire."

III. Local Administration Department Notification No. 541, dated the 12th May 1941, published at page 348 of Part I-A of the Fort St. George Gazette, dated the 20th May 1941.

In exercise of the powers conferred by sub-section (1) of section 201 of the Madras Local Boards Act, 1920 (Madras Act XIV of 1920), His Excellency the Governor of Madras is hereby pleased to make the following rule altering Schedule V to the said Act:—

RULE.

In rule I-B of the said schedule—

(1) Sub-rules (1) and (2) shall be renumbered as sub-rules (2) and (3) respectively, and the following shall be inserted as sub-rule (1), namely:—

"(1) A district board—

(a) shall make provision for the construction, diversion, improvement and maintenance of the different classes of roads in its charge and of all bridges, culverts, road dams and causeways on such roads to such extent as the Provincial Government consider necessary and practicable; and

(b) shall not divert such provision to other purposes without the express sanction of the Provincial Government";

(2) clause (a) of sub-rule (2) as so renumbered shall be omitted; and

(3) in clause (e) of sub-rule (3) as so renumbered, for the expression "sub-rule (1)," the expression "sub-rules (1) and (2)" shall be substituted.

IV. Local Administration Department Notification No. 596, dated the 9th June 1941, published at page 402 of Part I-A of the Fort St. George Gazette, dated the 10th June 1941.

In exercise of the powers conferred by sub-section (1) of section 201 of the Madras Local Boards Act, 1920 (Madras Act XIV

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of 1920), His Excellency the Governor of Madras is hereby pleased to make the following rule altering Schedule V to the said Act:—

RULE.

In sub-rule (1) of rule 9 of the said schedule, after sub-clause (ii) of clause (b), the following word and clause shall be inserted, namely:—

"or

(c) subject to such control as may be prescribed by such person as may be appointed by the Provincial Government in that behalf."

V. Local Administration Department Notification No. 153, dated the 18th February 1942, published at page 158 of Part I-A of the Fort St. George Gazette, dated the 3rd March 1942.

In exercise of the powers conferred by sub-section (1) of section 201 of the Madras Local Boards Act, 1920 (Madras Act XIV of 1920), His Excellency the Governor of Madras is hereby pleased to make, with effect on and from the 1st April 1942, the following rule altering Schedule IV to the said Act:—

RULE.

For sub-rule (1) of rule 9 of the said schedule, the following sub-rule shall be substituted, namely:—

"(1) The classes into which companies and persons shall, for the purposes of assessment to the profession tax, be divided and the maximum half-yearly tax leviable on each class shall be as follows:—

Class.	Half-yearly income.				Maximum half-yearly tax.
					RS. A.
I	More than Rs. 9,600	..	..	..	25 0
II	Do.	7,800 but not more than Rs. 9,600	..	..	18 0
III	Do.	6,000	do.	7,800	13 0
IV	Do.	4,200	do.	6,000	9 0
V	Do.	3,000	do.	4,200	6 0
VI	Do.	1,800	do.	3,000	3 0
VII	Do.	1,200	do.	1,800	2 0
VIII	Do.	600	do.	1,200	1 0
IX	Do.	300	do.	600	0 8"

VI. Local Administration Department Notification No. 188, dated the 5th February 1943, published at page 88 of Part I-A of the Fort St. George Gazette, dated the 9th March 1943.

In exercise of the powers conferred by sub-section (1) of section 201 of the Madras Local Boards Act, 1929 (Madras Act XIV of

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1920), His Excellency the Governor of Madras is hereby pleased to make the following rule altering Schedule VII to the said Act :—

RULE.

In Schedule VII to the said Act—

(i) In clause (a), after the word "boiling," the words "paddy or" shall be inserted.

(ii) For clause (m), the following clause shall be substituted, namely :—

"(m) selling or storing timber, firewood, thatching materials, hay, grass, straw, fibre, coal or charcoal."

(iii) For the proviso at the end, the following proviso shall be substituted, namely :—

"Provided that no licence shall be required for boiling paddy or for the storage of timber, firewood, thatching materials, hay, grass, straw, fibre, coal or charcoal when such boiling or storage is for private use or is in a place not situated among inhabited houses."

VII. Local Administration Department Notification No. 309, dated the 12th April 1943, published at page 164 of Part I-A of the Fort St. George Gazette, dated the 27th April 1943.

In exercise of the powers conferred by sub-section (1) of section 201 of the Madras Local Boards Act, 1920 (Madras Act XIV of 1920), His Excellency the Governor of Madras is hereby pleased to make the following rule altering Schedule II to the said Act :—

RULE.

For sub-rule (1) of rule 11 of the said schedule, the following sub-rule shall be substituted, namely :—

"(1) Within three days of the date of the meeting of a district board a copy of the minutes of the proceedings at such meeting in English and in the language of the district shall be forwarded to the Collector of the district and another copy to the Deputy Inspector of Municipal Councils and Local Boards of the range in which the district board is situated. An authenticated copy of the said minutes shall also be affixed to the notice board of the office of the district board and relevant extracts of the said minutes shall be sent to the Heads of Departments of the Provincial Government and to the Superintending Officers appointed under sub-section (1) of section 37 for information and necessary action."

VIII. Local Administration Department Notification No. 477, dated the 29th July 1943, published at page 272 of Part I-A of the Fort St. George Gazette, dated the 3rd August 1943.

In exercise of the powers conferred by sub-section (1) of section 201 of the Madras Local Boards Act, 1920 (Madras Act XIV of

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1920), His Excellency the Governor of Madras is hereby pleased to make the following rule altering Schedule VII to the said Act :—

RULE.

In clause (h) of Schedule VII to the said Act, for the words "manufacturing sugarcandy," the words "manufacturing jaggery or sugarcandy" shall be substituted.

IX. Local Administration Department Notification No. 207, dated the 4th May 1944, published at page 132 of Part I-A of the Fort St. George Gazette, dated the 23rd May 1944.

In exercise of the powers conferred by sub-section (1) of section 201 of the Madras Local Boards Act, 1920 (Madras Act XIV of 1920), His Excellency the Governor of Madras is hereby pleased to make the following rule altering Schedule V to the said Act :—

RULE.

In rule 1 of the said schedule; after sub-rule (a), the following sub-rule shall be inserted, namely :—

"(aa) It shall be the duty of every panchayat to provide for the payment of transit pay and travelling allowance of a person appointed as its executive officer in respect of his journey to join the appointment."

X. Local Administration Department Notification No. 400, dated the 21st September 1945, published at page 250 of Part I-A of the Fort St. George Gazette, dated the 23rd October 1945.

In exercise of the powers conferred by sub-section (1) of section 201 of the Madras Local Boards Act, 1920 (Madras Act XIV of 1920), His Excellency the Governor of Madras hereby makes the following rules altering Schedule IV to the said Act :—

RULES.

1. In rule 24 of the said schedule—

(i) in sub-rule (1), the words "and notice of every such amendment shall be given to the person or persons interested therein" shall be omitted and the following words shall be added, namely :—

"or subject to any rules which the Provincial Government may make in this behalf, by substituting therein for the name of the owner of any property the name of any other person who has succeeded by transfer or otherwise to the ownership of the property";

(ii) at the end of the proviso to sub-rule (2), the following shall be added, namely :—

"except where the fair rent of a building has been determined by the Controller under the Madras House Rent Control Order, 1941";

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(iii) after the same proviso, the following further proviso shall be added, namely :—

“ Provided further that the decision of the executive authority in any disputed case of transfer of ownership of a property shall not give the transferee a legal title to the property ”; and

(iv) after sub-rule (2), the following sub-rule shall be added, namely :—

“ (3) in every case in which, between one general revision and another, the executive authority assesses any property for the first time, or increases the assessment on any property otherwise than in consequence of a general enhancement of the rate at which the house-tax is leviable, the executive authority shall intimate by a special notice to the owner or occupier of such property that a petition for revising the assessment will be considered if it reaches the panchayat office within 60 days from the date of service of such notice in the case of the Government, a railway administration or a company and within 30 days from the date of service of such notice in other cases.”

2. Rule 24-A of the said schedule shall be renumbered as sub-rule (1) of that rule and the following shall be added as sub-rule (2), namely :—

“ (2) Immediately after the disposal of a revision petition under sub-rule (1) or rule 24 (3) the executive authority shall inform the petitioner or his authorized agent, either orally or in writing, of the orders passed thereon, shall direct him to pay the amount fixed on revision within 15 days after the date of receipt of such intimation, or, if the amount is not yet due, within 15 days from the date on which it becomes due, and shall, if necessary, cause the assessment books to be corrected.”

3. In rule 27 of the said schedule—

(i) in clause (a) the figures “ 24 ” shall be omitted; and

(ii) in clause (b), for the expression “ 24-A ” the expression “ 24-A (2) ” shall be substituted.

4. In sub-rule (1) of rule 33 of the said schedule, after the words “ notice or bill,” the following shall be inserted, namely :—

“ or the giving of the direction referred to in rule (24-A 2).”

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APPENDIX V.

[Vide item IV (3) on page 234 supra.]

Draft amendments.

Whereas certain rules amending Schedules IV, V and VI to the Madras City Municipal Act, 1919 (Madras Act IV of 1919), were made by His Excellency the Governor of Madras under section 347 (3) of that Act. When the proclamation under section 93 of the Government of India Act, 1935, was in force in this Province;

And whereas the said rules will cease to be in force on the 30th April 1948;

And whereas it is expedient to re-enact these rules permanently subject to modifications in two respects;

Now, therefore, in pursuance of section 347 (5) of the Madras City Municipal Act aforesaid, this Assembly is hereby pleased to approve the following draft rule proposed to be made by the Government of Madras :—

DRAFT RULE.

“ The rules published with the Notifications of the Local Administration Department reproduced below are hereby re-enacted permanently subject to the modifications that—

(1) in the rules published with Local Administration Department Notification No. 523, dated the 20th July 1942, rule 2 shall be omitted; and

(2) in the rules published with Local Administration Department Notification No. 387, dated the 13th September 1945, rule 2 shall be omitted :—”

I. *Local Administration Department Notification No. 943, dated the 13th August 1940, published at page 598 of Part I-A of the Fort St. George Gazette, dated the 20th August 1940.*

In exercise of the powers conferred by sub-section (3) of section 347 of the Madras City Municipal Act, 1919 (Madras Act IV of 1919), His Excellency the Governor of Madras is hereby pleased to make the following rule altering Schedule V to the said Act :—

RULE.

After rule 20 of Schedule V to the Madras City Municipal Act, 1919, the following rule shall be inserted, namely :—

“ 20-A. Copies of all correspondence addressed to or by the standing committee or its chairman—

(a) on all matters falling within the scope of rules 19 and 20; and

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- (b) on such other matters of importance as the Commissioner may from time to time determine, shall be sent simultaneously to the Commissioner, by the auditors or by the chairman of the standing committee, as the case may be."

II. *Local Administration Department Notification No. 1411, dated the 7th November 1940, published at page 956 of Part I-A of the Fort St. George Gazette, dated the 17th December 1940.*

In exercise of the powers conferred by sub-section (3) of section 347 of the Madras City Municipal Act, 1919 (Madras Act IV of 1919), His Excellency the Governor of Madras is hereby pleased to make the following rule altering Schedule V to the said Act:—

RULE.

For sub-rule (1) of rule 20 of Schedule V to the Madras City Municipal Act, 1919, the following sub-rule shall be substituted, namely:—

- "(1) The Commissioner shall forthwith remedy any defects or irregularities that may be pointed out by the auditors and send a report of the same to the standing committee which shall forward the report to the Council."

III. *Local Administration Department Notification No. 1204, dated the 27th November 1941, published at page 912 of Part I-A of the Fort St. George Gazette, dated the 9th December 1941.*

In exercise of the powers conferred by sub-section (3) of section 347 of the Madras City Municipal Act, 1919 (Madras Act IV of 1919), His Excellency the Governor of Madras is hereby pleased to make the following rules altering Schedule IV to the said Act:—

RULES.

In the said schedule—

- (1) In rule 4, for the words "not being less than thirty days" the words "not being less than thirty or more than sixty days" shall be substituted.

- (2) After rule 4, the following rule shall be inserted, namely:—

"4-A. The preferring or pendency of an application for the revision of the assessment of any tax under rules 2, 3-A or 4 shall not—

(a) bar the collection thereof, or

(b) operate as a stay of proceedings to enforce payment of the same."

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- (3) In rule 6, the words "shall direct him to pay the amount fixed on revision within fifteen days after the date of receipt of such intimation or if the amount is not already due, within fifteen days from the date on which it becomes due" shall be omitted.

- (4) In rule 6-B, the words and figure "save as provided in rule 6" shall be omitted.

- (5) In rule 20—

(i) in sub-rule (1), the words and figure "or a direction has to be given under rule 6" shall be omitted; and

(ii) in sub-rule (3), for the words "bill or direction", the words "or bill" shall be substituted.

- (6) In sub-rule (i) of rule 21, the words "or the giving of the direction" and the words and figure "or rule 6" shall be omitted.

IV. *Local Administration Department Notification No. 151, dated the 4th February 1942, published at page 158 of Part I-A of the Fort St. George Gazette, dated the 3rd March 1942.*

In exercise of the powers conferred by sub-section (3) of section 347 of the Madras City Municipal Act, 1919 (Madras Act IV of 1919), His Excellency the Governor of Madras is hereby pleased to make the following rule altering Schedule VI to the said Act:—

RULE.

In Schedule VI to the said Act, for the item "Machinery—Using for any industrial purpose," the item "Machinery other than such machinery as may by notification be exempted by the Provincial Government from time to time—Using for any industrial purpose" shall be substituted.

V. *Local Administration Department Notification No. 329, dated the 11th May 1942, published at page 351 of Part I-A of the Fort St. George Gazette, dated the 19th May 1942.*

In exercise of the powers conferred by sub-section (3) of section 347 of the Madras City Municipal Act, 1919 (Madras Act IV of 1919), His Excellency the Governor of Madras is hereby pleased to make the following rule altering Schedule IV to the said Act:—

RULE.

In the said Schedule, in the proviso to rule 3, after the words "Provided that" the following shall be inserted, namely:—

"except in a case of revision which is necessitated by reconstruction of or improvements or additions to, buildings or by clerical or arithmetic error."

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VI. Local Administration Department Notification No. 523, dated the 20th July 1942, published at page 566 of Part I-A of the Fort St. George Gazette, dated the 28th July 1942.

In exercise of the powers conferred by sub-section (3) of section 347 of the Madras City Municipal Act, 1919 (Madras Act IV of 1919), His Excellency the Governor of Madras is hereby pleased to make the following rules altering Schedule IV to the said Act. The rules hereby made shall be deemed to have been made and to have come into force on and from the 1st April 1942.

RULES.

1. For rule 8 of the said Schedule, the following rule shall be substituted, namely:—

“ 8. Persons shall be assessed by the Commissioner to the profession-tax under the following classes on a scale to be determined by the Council from time to time:

Provided that such scale shall be subject to the maximum specified against each class:

Provided also that the proportion which the tax on any class bears to the minimum income of that class shall in no case be smaller than the proportion which the tax on any lower class bears to the minimum income of such lower class:—

Class.	Half-yearly income.		Maximum half-yearly tax.	
			RS.	
I	More than Rs. 9,600			25
II	Do. 7,800 but not more than Rs. 9,600			18
III	Do. 6,000	Do. 7,800		13
IV	Do. 4,200	Do. 6,000		9
V	Do. 3,000	Do. 4,200		6
VI	Do. 1,800	Do. 3,000		3
VII	Do. 1,200	Do. 1,800		2
VIII	Do. 600	Do. 1,200		1

- * 2. In sub-rule (1) of rule 9 of the said Schedule, for the words “fixed salary or remuneration” the words “fixed income” and for the words “limit of salary” the words “limit of income” shall be substituted.

VII. Local Administration Department Notification No. 662, dated the 14th August 1942, published at page 706 of Part I-A of the Fort St. George Gazette, dated the 22nd September 1942.

In exercise of the powers conferred by sub-section (3) of section 347 of the Madras City Municipal Act, 1919 (Madras Act IV of 1919), His Excellency the Governor of Madras is hereby pleased to make the following rule altering Schedule IV to the said Act.

* This rule shall be omitted—vide modification (1) in the opening portion.

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RULE.

In sub-rule (a) of rule 15 of the said Schedule, for the words “from the date of the decision” in the two places where they occur, the words “from the date on which such decision was communicated by registered post” shall be substituted.

VIII. Local Administration Department Notification No. 822, dated the 3rd November 1942, published at page 828 of Part I-A of the Fort St. George Gazette, dated the 17th November 1942.

In exercise of the powers conferred by sub-section (3) of section 347 of the Madras City Municipal Act, 1919 (Madras Act IV of 1919), His Excellency the Governor of Madras is hereby pleased to make the following rule altering Schedule IV to the said Act with effect on and from the 1st April 1942:—

RULE.

To rule 1-D of the said Schedule, the following proviso shall be added, namely:—

“ Provided that the Provincial Government may, for special reasons, direct that the general revision of assessment books which is due to be made in any year shall be postponed for such period as they think fit and that such postponement shall not affect subsequent general revisions.”

IX. Local Administration Department Notification No. 1, dated the 11th December 1942, published at page 2 of Part I-A of the Fort St. George Gazette, dated the 5th January 1943.

In exercise of the powers conferred by sub-section (3) of section 347 of the Madras City Municipal Act, 1919 (Madras Act IV of 1919), His Excellency the Governor of Madras is hereby pleased to make the following rule altering Schedule IV to the said Act.

The rule hereby made shall be deemed to have been made and to have come into force on and from the 1st April 1942.

RULE.

For rule 9 of the said Schedule, the following rule shall be substituted, namely:—

“ 9. (1) If in the opinion of the Commissioner, profession-tax is or will be due for any half-year from any person other than a person in respect of whom the Commissioner obtains to his satisfaction particulars of income under

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section 115, he shall serve a notice on such person either in that half-year or in the succeeding half-year requiring him to furnish within such period, not being less than thirty days as may be specified in the notice, a return showing the income on the basis of which, according to such person he is liable to be assessed to profession-tax for the half-year in question. Thereupon, it shall be open to such person to submit a return showing the income derived by him during the half-year for which profession-tax is claimed or during the previous half-year and produce any evidence on which the person may rely in support of the return made.

- (2) If a return as required under sub-rule (1) or a list with the statement as required by section 115 is furnished and the Commissioner is satisfied that it is correct and complete, he shall levy the profession-tax from the person liable to be assessed on the basis of such return or statement.

Explanation.—If a person produces the notice of demand of income-tax served on him under section 29 of the Indian Income-tax Act, 1922, for the year comprising the half-year in question, the Commissioner shall be bound to take one-half of the income mentioned in such notice of demand as the income derived from the sources on which profession-tax is leviable under this Act, as the income on the said sources for the purposes of levying profession-tax.

- (3) If no return as required under sub-rule (1) is furnished, or if the Commissioner is satisfied that any return furnished is incorrect or incomplete, he shall assign to the person the class in the scale appropriate to the half-yearly income of such person as estimated by him.
- (4) The Commissioner may, when classifying any person under sub-rule (3), do so on general considerations with reference to the nature and reputed value of the business transacted, the size and rental of residential and business premises, the quantity and number of articles dealt with, the number of persons employed and the income-tax paid to Government.
- (5) The Commissioner shall not be entitled to call for the accounts of any person."

X. Local Administration Department Notification No. 93, dated the 2nd February 1943, published at page 48 of Part I-A of the Fort St. George Gazette, dated the 9th February 1943.

In exercise of the powers conferred by sub-section (3) of section 347 of the Madras City Municipal Act, 1919 (Madras Act IV of 1919), His Excellency the Governor of Madras is hereby pleased to make the following rule altering Schedule IV to the said Act.

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The rule hereby made shall be deemed to have been made and to have come into force on and from the 1st April 1942.

RULE.

After rule 4-A of the said Schedule, the following shall be inserted as rule 4-B, namely:—

"4-B. Notwithstanding anything contained in rule 2, 3-A or 4, the Government may, for special reasons, by general or special order, direct the Commissioner to receive and consider petitions received after the periods specified in the said rules and the Commissioner shall thereupon consider and dispose of such petitions on their merits."

XI. Local Administration Department Notification No. 626, dated the 19th October 1943, published at page 382 of Part I-A of the Fort St. George Gazette, dated the 23rd November 1943.

In exercise of the powers conferred by sub-section (3) of section 347 of the Madras City Municipal Act, 1919 (Madras Act IV of 1919), His Excellency the Governor of Madras is hereby pleased to make the following rule altering Schedule IV to the said Act:—

RULE.

To sub-rule (1) of rule 21 of the said Schedule, the following explanation shall be added, namely:—

"*Explanation.*—It shall not be open to any person whose negligence or misconduct has caused or contributed to any such deficiency or loss to contend that notwithstanding his negligence or misconduct, the deficiency or loss would not have occurred but for the negligence or misconduct of some other person."

XII. Local Administration Department Notification No. 387, dated the 13th September 1945, published at page 245 of Part I-A of the Fort St. George Gazette, dated the 16th October 1945.

In exercise of the powers conferred by sub-section (3) of section 347 of the Madras City Municipal Act, 1919 (Madras Act IV of 1919), His Excellency the Governor of Madras hereby makes the following rules altering Schedule IV to the said Act.

Rule 2 hereby made shall be deemed to have come into force on the 1st April 1939.

RULE.

1. For the first paragraph of rule I-D of the said Schedule, the following paragraph shall be substituted, namely:—

"A general revision of the assessment books shall be made by the Commissioner once in every five years; and for

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this purpose the Commissioner may, with the approval of the council, arrange the territorial divisions of the City in such groups as may be considered necessary and revise the assessment books relating to each such group by rotation once in every five years."

a 2 After the proviso to rule I-D of the said Schedule, the following proviso shall be added, namely:—

"Provided further that the Provincial Government may, by order, direct that the revision of the assessment books in so far as they relate to Government and railway buildings shall be postponed for such period as they think fit and that for the purpose of assessment during the said period, the valuation of those buildings for the last half-year immediately preceding the said period, shall be adopted with such modifications as may be necessary on account of the extensions or alterations of the buildings, if any."

XIII. Local Administration Department Notification No. 125, dated the 1st April 1946, published at page 94 of Part I-A of the Fort St. George Gazette, dated the 2nd April 1946.

In exercise of the powers conferred by sub-section (3) of section 347 of the Madras City Municipal Act, 1919 (Madras Act IV of 1919), His Excellency the Governor of Madras hereby makes the following rule altering Schedule IV to the said Act.

RULE.

For sub-rule (1) of rule 10 of the said Schedule, the following sub-rule shall be substituted, namely:—

"(1) The tax on carriages and animals shall be levied at rates not exceeding the following:—

Description of carriage or animal.	Maximum half-yearly tax. RS.
For every tram car	100
For every four-wheeled vehicle with springs or other appliances acting as springs constructed to be drawn by one or more animals	20
For every two-wheeled vehicle with springs or other appliances acting as springs constructed to be drawn by one or more animals	10
For every bicycle or tricycle	3
Do. perambulator	5

This rule shall be omitted—vide modification (2) in the opening portion.

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Description of carriage or animal.	Maximum half-yearly tax. RS.
For every rickshaw	10
Do. hand-cart with springs or other appliances acting as springs..	10
Do. elephant	15
Do. camel	10
Do. horse or mule not under 12 hands	10
Do. horse or mule under 12 hands ..	5
Do. bullock or bull	4
Do. male buffalo	4
Do. pig	4
Do. goat	4
Do. ass	4
Do. dog	2

APPENDIX VI.

[Vide item III (4) on page 234 supra.]

A Bill further to amend the Police Act, 1861, in its application to the Province of Madras.

L.A. BILL No. 38 OF 1947.

Central Act V of 1861. WHEREAS it is expedient further to amend the Police Act, 1861, in its application to the Province of Madras, for the purpose hereinafter appearing; It is hereby enacted as follows:—

1. (1) This Act may be called the Police (Madras Amendment) Act, 1948. Short title and extent.

(2) It extends to the whole of the Province of Madras.

Central Act V of 1861.

2. In section 15-A of the Police Act, 1861—

(i) in sub-section (1), the words "in regard to which any proclamation notified under the last preceding section is in force" and the words "being an inhabitant of such area," shall be omitted; Amendment of section 15-A, Central Act V of 1861.

(ii) in sub-section (2), clauses (a), (b) and (c) shall be re-lettered as clauses (b), (c) and (d) respectively, and the following shall be inserted as clause (a), namely:—

"(a) declare the limits of the local area the inhabitants of which have, in his opinion, been guilty of such misconduct or caused or contributed to the same;"

[23rd April 1948]

APPENDIX VII.

[Vide item III (5) on page 265 supra.]

A Bill to prohibit transfers of certain lands and buildings by managers of educational and other institutions in the Province of Madras.

L.A. BILL No. 7 OF 1948.

(As passed by the Assembly.)

WHEREAS it is expedient to prohibit transfers by managers of educational and other institutions in the Province of Madras, of lands and buildings acquired with the aid of Government grants, or from the Government; It is hereby enacted as follows:—

Short title,
extent and
commence-
ment.

1. (1) This Act may be called the Madras Aided Institutions (Prohibition of Transfers of Property) Act, 1948.
- (2) It extends to the whole of the Province of Madras.
- (3) It shall come into force at once.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context—

- (1) "Government" means the Provincial Government;
- (2) "institution" means—
 - (a) any college, school or other place in the Province of Madras which is intended for an educational purpose and includes libraries, playgrounds, hostels and quarters for the residence of teachers and servants;
 - (b) any hospital, dispensary or nursing home in the Province and includes quarters for the residence of doctors, nurses and servants;
 - (c) any other institution or class of institution in the Province notified by the Government in the *Fort St. George Gazette*;
- (3) "manager" means the owner, trustee or other person who has power to transfer any land or building belonging to an institution, and includes a local authority;
- (4) "transfer" includes sale, exchange, mortgage, lease or gift.

Prohibition
of transfer
of lands and
buildings by
managers,
without
permission
from
Government,

3. (1) Where before or after the commencement of this Act—
 - (a) any land or building has been acquired, constructed, improved, or altered . . . for the purposes of any institution, with the aid of any grant made from the revenues of the Government, or

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(b) any land or building has been transferred by the Government for use for the purposes thereof,

then, notwithstanding anything to the contrary in any other law for the time being in force or in the deed of transfer or other document relating to the land or building, it shall not be transferred without the permission of the Government under sub-section (2); nor shall the land or building be used except for the purposes of the institution or purposes similar thereto or be kept vacant without being used for any purpose, without the permission of the Government.

(2) The Government may, in their discretion, by order, permit the transfer of any such land or building if—

(i) the transfer is made in furtherance of the purposes of the institution or of similar purposes approved by the Government, and the assets resulting from the transfer are to be wholly utilized in furtherance of the said purposes;

(ii) the transfer is made only in part in furtherance of the purposes aforesaid, provided repayment is made to the Government of such portion as the Government may deem proper in the circumstances of the case, of the grant referred to in sub-section (1), clause (a), or of the current market value of the land or building referred to in sub-section (1), clause (b), or of both, as the case may be;

(iii) the transfer is made for any other valid reason, provided repayment is made to the Government in full of the grant referred to in sub-section (1), clause (a), or of the current market value of the land or building referred to in sub-section (1), clause (b), or of both, as the case may be.

Explanation.—When granting permission under clause (i) or (ii) for the transfer of any land or building, the Government may impose such conditions as they deem fit to ensure that the assets resulting from the transfer are utilized wholly or in part, as the case may be, in furtherance of the purposes referred to in those clauses; but a contravention of any such condition imposed on the transferor shall not invalidate the transfer.

(3) If any such land or building is transferred without such permission, the transfer shall be null and void.

4. If, in any case, the Government, after giving the manager of the institution concerned a reasonable opportunity to make his representations in regard to the matter, are satisfied that the provisions of section 3, sub-section (1), have been contravened in respect of any land or building, they may, by order—

(a) if the land, or the land on which the building stands, belonged to the Government and was transferred by them for the purposes of the institution, direct the Collector to take possession of the land and of the building, if any, standing thereon, or at their option, direct the manager to pay to them

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in full the current market value of the land (together with that of the building where it was also transferred by them) and also the amount of the grant, if any, made by Government for improving altering . . . or constructing the land or building ;

(b) if the land, or the land in which the building stands, did not belong to the Government, direct the manager to repay in full the grant made by the Government, or at their option, direct the Collector to take possession of the land and of the building, if any, standing thereon, in which case, the Government shall pay to the manager any amount spent by him or his predecessors-in-title from the funds of the institution for the purpose of acquiring the land and constructing or acquiring the building, if any, thereon.

Effect of
orders under
sections 3 (2)
and 4.

5. (1) Every order passed by the Government under section 3 (2) or 4 shall, subject to the provisions of sub-sections (2) and (3), be final and shall not be liable to be questioned in any Court of law.

(2) (a) The manager of the institution in respect of which such an order is passed, not being a local authority, may, on the ground that the amount repayable or payable by or to him has been wrongly fixed in the order, apply to the District Judge having jurisdiction over the area in which the property in question is situated or if the property is situated in the presidency-town, to the Principal Judge of the Madras City Civil Court, for fixing such amount correctly in accordance with the provisions of section 3 (2) or 4, as the case may be.

(b) Such application shall be made within sixty days from the date on which the order is communicated to the manager.

(3) The District or City Civil Court Judge shall determine the amount which is properly repayable or payable by or to the manager in accordance with the provisions of section 3 (2) or 4, as the case may be, and such determination shall be final and shall not be liable to be questioned in any Court of Law.

Land or
building to
vest in
Crown
absolutely
on
possession
being taken.

6. (1) When, in pursuance of an order under section 4, the Collector takes possession of any land or building by himself or through another, it shall vest absolutely in the Crown free from all encumbrances other than those existing at the commencement of this Act or created with the permission of the Government after such commencement.

(2) If the Collector or any person authorized by him in this behalf is opposed or impeded in taking possession of any land or building under this Act, he shall if he is a Magistrate, enforce the surrender of such land or building to himself; and, he is not a Magistrate, he shall apply to a Magistrate, or within the presidency-town, . . . to the Commissioner of Police, and such Magistrate or Commissioner shall enforce the surrender of the land or building to the Collector.

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(3) Whoever opposes or impedes the Collector or any person authorized by him in taking possession of any land or building under this Act shall be punishable with imprisonment which may extend to six months or with fine which may extend to five thousand rupees or with both.

(4) Any land or building which vests in the Crown under sub-section (1) shall be used by the Government, so far as may be, only for purposes similar to those for which it was being used before such vesting.

7. Any sum required to be repaid or paid to the Government in pursuance of section 3, 4 or 5 may, without prejudice to any mode of recovery provided in any other law for the time being in force, be recovered from the properties of the institution or from the manager thereof as if it were an arrear of land revenue due from such institution or manager.

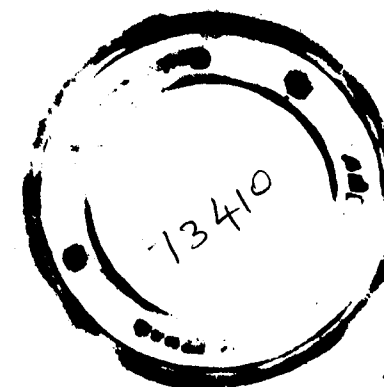
8. (1) The Government may, by notification in the Fort Rules, St. George Gazette, make rules not inconsistent with this Act for carrying into effect the purposes thereof.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the court-fees payable on the applications referred to in section 5, sub-section (2) ;

(b) the procedure to be followed in respect of such applications ;

(c) the payment of the costs incurred by the parties, in connexion with such applications.



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